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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(Bills to be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2002.

Gujarat Bill No. 1 of 2002.

A BILL

further to amend the Gujarat Co-operative Societies Act, 1961.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 2002.

(2) It shall be deemed to have come into force on the 22nd January, 2002.

Insertion of new Chapter XB in Guj. X of 1962.

2. In the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the principal Act"), after Chapter XA, the following Chapter shall be inserted, namely :— **Guj. X of 1962.**

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"CHAPTER XB

CERTAIN OTHER PROVISIONS RELATING TO URBAN CO-OPERATIVE BANKS

Definitions.

115B. In this Chapter, unless the context otherwise requires,—

(a) "Bank" means an Urban Co-operative Bank;

(b) "committee" means a committee of an Urban Co-operative Bank;

(c) "committee member" means a member of a committee;

(d) "company'' means any body corporate and includes a firm and other association of individuals;

(e) "member of a family" in relation to a committee member means a wife or, as the case may be, a husband, father, mother, son who is dependent for his maintenance and unmarried daughter;

(f) "Urban Co-operative Bank" means a society registered under this Act and doing the business of banking, as defined in clause (b) of section 5 of the Banking Regulation Act, 1949. **10 of 1949.**

Qualifications and disqualifications for being committee member.

115C. (1) A person shall not be eligible for being chosen as a committee member unless he,—

(a) is continuously a member of the bank for a period of not less than three years and continues to be such member, and

(b) has continuously deposited in the bank an amount of not less than twenty thousand rupees for a period of three years and continues to so deposit.

(2) (a) A person shall be disqualified for being a committee member if he ceases to possess any of the qualifications mentioned in clauses (a) and (b) of sub-section (1).

(b) A person shall be disqualified for being chosen as or for being a committee member,—

(i) if such a person has made default in repayment of any loan taken from any bank or other society,

(ii) if a company in which the person or any member of his family has any interest has made default in repayment of any loan taken from any bank or other society after the date when repayment of the loan has become due,

(iii) if such person is convicted of an offence under section 115H.

(3) A committee member shall cease to hold office as such if at any time during the term of office, he becomes disqualified for being a committee member by reason of the provisions of sub-section (2).

(4) If any question arises as to whether a committee member has ceased to hold office as such under sub-section (3), the Registrar may after giving an opportunity to the committee member of being heard, determine the question and where the Registrar determines that a committee member has ceased to hold office, may by order remove such committee member.

Right to vote.

115D. No person shall exercise the right to vote at an election of a member of a committee in a financial year unless he is a member of the bank for the whole of the financial year preceding the financial year in which the election is held and continues to be such member.

Term of office of officers.

115E. (1) A Chairman, Vice-chairman or Managing Director (if such Director is elected) of a committee shall, unless he resigns or is removed earlier, be entitled to hold office continuously for not more than two terms.

(2) A person who has held the office of a Chairman or Vice-chairman or Managing Director (if he is elected) continuously for two terms, shall be eligible to hold that office after a lapse of a period of not less than two terms after he ceases to hold that office.

Explanation.—For the purpose of this section, the expression, "term" means a term consisting of three years commencing from the date of the first meeting of a committee in which a Chairman, Vice-chairman or, as the case may be, Managing Director (if he is elected) is elected.

Ensurance of certain things by committee.

115F. A committee shall ensure that –

(a) information is furnished every month to the Registrar in such form as may be prescribed, regarding the loans taken from the bank by each committee member, members of the family and companies with which he is associated, in any manner;

(b) the bank is registered as an insured bank under the Deposit Insurance and Credit Guarantee Corporation Act, 1961;

47 of 1961.

(c) defects in the working of the bank are rectified and financial irregularities disclosed in the course of audit of the bank or otherwise are remedied;

(d) action to recover loans given by the bank is taken within one year from the date when repayment of the same has become due;

(e) no financial loss is caused to the bank and any debt due to the bank which is not recovered within a period of one year from the date when it has become due shall be recovered;

(f) civil and criminal proceedings against a person who, in the opinion of the committee, has misappropriated any fund of the bank are initiated;

(g) the provisions of sections 18 and 24 of the Banking Regulation Act, 1949 as applicable to co-operative societies and of section 71 are complied with and if in its opinion any of the said provisions is contravened, such contravention is forthwith reported to the Registrar. 10 of 1949.

Urban Bank Credit Equalization Fund.

115G. (1) There shall be established by each bank a fund to be called "Urban Bank Credit Equalization Fund" consisting of the payments made into it under sub-section (2).

(2) After providing for the reserve fund as provided in section 67, for the dividend as provided in section 68, for the educational fund as provided in section 69 and for contribution for the public purpose as provided in section 70, the bank shall each year set aside a sum of fifteen per cent. of its profits and pay the same into the Urban Bank Credit Equalization Fund.

(3) Urban Bank Credit Equalization Fund shall be maintained in accordance with rules made by the Gujarat State Co-operative Bank Limited with the previous approval of the Government (which it is hereby authorised).

(4) Where in any circumstances the bank ceases to function, such amount of the fund shall be paid to the depositors as the Registrar may, in consultation with the Reserve Bank of India, determine.

Offences and their punishment and cognizance.

115H. (1) (a) It shall be an offence if a committee fails to comply with the provisions of any of the clauses (a) to (g) of section 115F.

(b) It shall be an offence if a committee fails to ensure that information under clause (a) of section 115F is true.

(c) It shall be an offence if a committee fails to ensure that a report under clause (g) of section 115F is true.

(2) Where an offence under this section has been committed by a committee of a bank, every person who, at the time the offence was committed, was a member of such committee, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment as provided in this section if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Every committee member who is deemed to be guilty of an offence under sub-section (1), read with sub-section (2) shall, on conviction, be punished,–

(a) If it is an offence under clause (a) of sub-section (1) for failure to comply with the provisions of—

(i) clause (a) of section 115F with fine which may extend to twenty thousand rupees;

(ii) clause (b) of section 115F with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees or with both;

(iii) clause (c) of section 115F with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both;

(iv) clause (d) of section 115F with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees or with both;

(v) clause (e) of section 115F with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both;

(vi) clause (f) of section 115F with imprisonment for a term which may extend to two years or with fine which may extend to two lakh rupees or with both;

(vii) clause (g) of section 115F with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both.

(b) If it is an offence under clause (b) of sub-section (1), with imprisonment for a term which may extend to two years or with fine which may extend to two lakh rupees or with both.

(c) If it is an offence under clause (c) of sub-section (1), with imprisonment for a term which may extend to two years or with fine which may extend to two lakh rupees or with both.

(4) Whoever after having been convicted of an offence under clause (a) of sub-section (1) for failure to comply with the provisions of clause (a) of section 115F is again convicted thereunder shall, on every such conviction, be punished with fine which may extend to fifty thousand rupees.

(5) Whoever, after having been convicted of an offence under clause (a) of sub-section (1) for failure to comply with the provisions of clause (c) of section 115F continues to commit such offence shall be punished for each day after the first, during which he continues so to offend, with fine which may extend to one thousand rupees.

(6) No court inferior to that of the Metropolitan Magistrate or the Magistrate of the First Class shall try any offence under this section.

(7) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, it shall be lawful for the Metropolitan Magistrate or the Magistrate of the First Class to pass a sentence of imprisonment or a fine on any person in excess of his powers under section 29 of that Code. 2 of 1974.

(8) No Prosecution under this section shall be lodged except with the previous sanction of the Registrar.

Application of provisions of section 84 to specified bank.

115 I. The provisions of section 84 shall apply to a specified bank as if in sub-section (1) of that section, for the words "at least once in each year", the words "at least once in each quarter of a year" had been substituted.

Explanation.—For the purpose of this section, the expression, "specified bank" means,—

(i) a bank having deposits of not less than fifty crores rupees;

(ii) a bank which is a Scheduled Bank within the meaning of clause (e) of section 2 of the Reserve Bank of India Act, 1934. 2 of 1934.

Chapter to override other provisions of Act.

115J. The provisions of this Chapter shall have effect notwithstanding anything to the contrary contained in the other provisions of this Act or the rules made thereunder or the Bye-laws of the bank.

Savings.

115K. Nothing in sub-section (2) of section 115C shall apply to a person who is a committee member on the date of the commencement of the Gujarat Co-operative Societies (Amendment) Act, 2002. Guj.... of 2002.

Transitory provision.

115L. Notwithstanding anything contained in this Act or the rules made thereunder or the bye-laws of the bank, a person who at the commencement of the Gujarat Co-operative Societies (Amendment) Act, 2002 is holding the office of the Chairman, Vice-chairman or Managing Director (if such Director is elected) of a committee continuously for a period not less than six years shall, unless he resigns or is removed earlier, cease to hold that office either on the date when the new Chairman, Vice-chairman or, as the case may be, Managing Director is elected or on the 30th June, 2002, whichever is earlier.". Guj.... of 2002.

Repeal and savings.

3. (1) The Gujarat Co-operative Societies (Amendment) Ordinance, 2002 is hereby repealed. Guj. Ord. 1 of 2002.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Recently serious irregularities have taken place in the working of certain urban co-operative banks in the State so as to threaten their very existence. With a view to preventing such serious irregularities taking place in the working of banks in future, it was considered necessary to make certain other provisions relating to urban co-operative banks in the Gujarat Co-operative Societies Act, 1961.

As the Gujarat Legislative Assembly was not in session, the Gujarat Co-operative Societies (Amendment) Ordinance, 2002 was promulgated to amend the said Act to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses of new Chaper XB explain the important provisions of the Bill :-

Clause 2. - This clause seeks to insert new Chapter XB containing new sections 115B to 115L.

(1) Section 115B.- Defines certain terms used in this Chapter.

(2) Section 115C.- In order that the management of the bank may vest in a committee consisting of persons who are interested in good and efficient functioning of the bank, only such persons may be permitted to be on the committee who have been members of the bank continuously for a minimum period of three years and who have continuously deposited in the bank an amount of not less than twenty thousand rupees for a minimum period of three years.

Persons who do not fulfil the requirements mentioned hereabove and persons who have made default in repayment of loans taken from the banks or persons who or whose family members have interest in a company which has made default in repaying loans taken from the bank, are also to be debarred from being members of a committee. Section 115C provides accordingly.

(3) Section 115D.- In order to prevent the unscrupulous activity of enrolling persons as members of a bank at the time of elections of members of a committee, it is necessary to prohibit a person from voting at an election of a member of a committee unless he is member of the bank for the whole of the financial year preceding the financial year in which the election is held. Section 115D provides accordingly.

(4) Section 115 E.-(i) Sub-section *(1)* of this section provides that a Chairman, Vice-chairman and elected Managing Director shall not be entitled to hold office continuously for more than two terms.

(ii) Sub-section *(2)* of this section provides that a person who has held the office of a Chairman or Vice-chairman or Managing Director continuously for two terms, shall be eligible to hold that office after a lapse of a period of not less than two terms after he ceases to hold that office.

(5) Section 115F.-This section provides for certain things to be ensured by a committee of a bank and section 115H provides for imposition of punishment on members of the committee for failure to comply with provisions of section 115F.

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(6) Section 115G.-This section provides that a bank shall establish a fund to be called " Urban Bank Credit Equalization Fund "and pay into it each year a sum of fifteen per cent. of it's profits.

(7) Section 115 I.- This section provides for application of the provisions of section 84 to a specified bank and explains the term "specified bank".

(8) Section 115J.- This section provides for override effect of this Chapter to other provisions of the Act.

(9) Section 115K.- This section prohibits the application of sub-section *(2)* of section 115C to a person who is a committee member on the date of the commencement of this Act.

(10) Section 115L.- This section provides for the transitory provision.

VADIBHAI PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 2.- (i) Sub-section *(a)* of section 115F of new Chapter XB proposed to be inserted by this clause empowers the State Government to prescribe by rules the form in which the information shall be furnished to the Registrar.

(ii) Sub-section *(3)* of section 115G empowers the Gujarat State Co-operative Bank Limited to make the rules with the previous approval of the Government for maintaining the Urban Bank Credit Equalization Fund.

The delegation of legislative powers as aforesaid is necessary and of a normal character.

Dated the 19th February, 2002. **VADIBHAI PATEL.**

By order and in the name of the Governor of Gujarat,

V.M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 20th February, 2002.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT REGULARISATION OF UNAUTHORISED DEVELOPMENT (AMENDMENT) BILL, 2002.

GUJARAT BILL NO. ૨ OF 2002.

A BILL

further to amend the Gujarat Regularisation of Unauthorised Development Act, 2001.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :—

Short title and commencement.

1. (1) This Act may be called the Gujarat Regularisation of Unauthorised Development (Amendment) Act, 2002.

(2) It shall be deemed to have come into force on the 25th November, 2001.

Amendment of section 3 of Guj. 23 of 2001.

2. In the Gujarat Regularisation of Unauthorised Development Act, 2001 (hereinafter referred to as "the principal Act"), in section 3, in sub-section (2), after clause (a), the following shall be inserted, namely:— **Guj. 23 of 2001.**

"(aa) Where an unauthorised development in urban development

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area or development area has been carried out at any time before the 22nd November, 2000 and the development has been wholly destroyed by the earthquake or rendered substantially and permanently unfit for the purpose of occupation due to the earthquake in the month of January, 2001 and the owner or occupier of such development intends to carry out development at the same place and with the same built up area as existed prior to such destruction, the designated authority may, notwithstanding anything contained in the relevant law but having regard to the provisions of section 4, by an order allow him to carry out such unauthorised development subject to such terms and conditions as may be prescribed and may regularise the same in accordance with the provisions of this Act, as if such unauthorised development had been carried out before the 22nd November, 2000:

Provided that the designated authority, while regularising such unauthorised development shall not charge any fee prescribed in the Table.".

Amendment of section 5 of Guj. 23 of 2001.

3. In the principal Act, in section 5, -

(1) for sub-section (1), following shall be substituted, namely:-

"(1)(i) Any person aggrieved by the notice served upon him or notice published under sub-section (2) of section 3 may, within sixty days from the date of the receipt or , as the case may be, the publication of the notice, or

(ii) the owner or occupier aggrieved by an order made under clause (aa) of sub-section (2) of section 3, may, within sixty days from the date of the order,

prefer an appeal to an Appellate Officer, who shall be a person who has held the office of District Judge for a period not less than three years and appointed in this behalf by the State Government for each City or development area:

Provided that the Appellate Officer may entertain the appeal after the expiry of the said period of sixty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.";

(2) in sub-section(2), after the words "the notice", the words, letters, brackets and figures "or, as the case may be, the order made under clause (aa) of sub-section (2) of section 3" shall be inserted.

Amendment of section 9 of Guj. 23 of 2001.

4. In the principal Act, in section 9, in sub-section (2), after-clause (c), the following clause shall be inserted, namely :-

"(cc) the terms and conditions subject to which unauthorised development may be allowed to carry out and regularised under clause (aa) of sub-section (2) of section 3.".

Repeal and savings.

5. (1) The Gujarat Regularisation of Unauthorised Development (Amendment) (Second) Ordinance, 2001 is hereby repealed. **Guj. Ord. 8 of 2001.**

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act. as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

It had been represented to the State Government by the persons who have lost their houses and have become homeless due to the severe earthquake of 26th January, 2001 that they may be allowed to construct the houses at the original site with the same built up area as existed prior to such destruction so as to accommodate all the owners or the occupiers with the same built up area in the reconstructed houses. It had also been represented that their cases would have been governed under the provisions of the Gujarat Regularisation of Unauthorised Development Act, 2001 had their houses not collapsed due to earthquake. They had demanded not to charge any fees for such regularisation.

In order to provide accommodation to the bonafide owners or occupiers of houses who are victims of earthquake, it was considered necessary to make provision in the said Act that the unauthorised construction which have been destroyed due to earthquake may be allowed to be carried out and may be regularised by an order of designated authority in accordance with the provisions of the said Act. It has also been provided that no fees shall be charged for regularisation of such unathorised construction. A provision has also been made entitling the owner or occupier to file an appeal against the order of the designated authority.

As the Gujarat Legislative Assembly was not in session, the Gujarat Regularisation of Unauthorised Development (Amendment) (Second) Ordinance, 2001 was promulgated to amend the said Act to achieve the aforesaid object.

This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

INDRAVIJAYSINH JADEJA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :-

Clause 2.– New clause (aa) proposed to be inserted after clause (a) of sub-section (2) in section (3) by this clause empowers the State Government to prescribe by rules the terms and conditions subject to which the designated authority may allow the owner or occupier to carry out unauthorised development by an order under proposed new clause (aa).

The delegation of the legislative powers as aforesaid is necessary and is of a normal character.

Dated the 21st February, 2002.

INDRAVIJAYSINH JADEJA,

By order and in the name of the Governor of Gujarat,

V.M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 21st February, 2002.

Government Central Press, Gandhinagar.

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT TOWN PLANNING AND URBAN DEVELOPMENT (AMENDMENT) BILL, 2002.

GUJARAT BILL NO. 3 OF 2002.

A BILL

further to amend the Gujarat Town Planning and Urban Development Act, 1976.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :—

Short title and commencement.

1. (1) This Act may be called the Gujarat Town Planning and Urban Development (Amendment) Act, 2002.

(2) It shall be deemed to have come into force on the 12th December, 2001.

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Amendment of section 6B of President's Act 27 of 1976.

2. In the Gujarat Town Planning and Urban Development Act, 1976 (hereinafter referred to as "the principal Act"), in section 6B, in sub-section (*4*), for the words, brackets and figure "sub-section (1)", the words, brackets and figure "sub-section (2)" shall be substituted. President's Act 27 of 1976.

Amendment of section 17 of President's Act 27 of 1976.

3. In the principal Act, in section 17, in sub-section (*1*), the proviso to clause (e) shall be deleted.

Amendment of section 47 of President's Act 27 of 1976.

4. In the principal Act, to section 47, the following proviso shall be added, namely : --

"Provided that the appropriate authority may, in such circumstances as may be prescribed and with the previous sanction of the State Government, reduce the aforesaid period of one month to fifteen days for inviting objections to the draft scheme.".

Amendment of section 65 of President's Act 27 of 1976

5. In the principal Act, in section 65, in sub-section (2), in clause (b), the brackets and words "(which shall not be earlier than one month after the date of publication of the notification)" shall be deleted.

Amendment of section 118 of President's Act 27 of 1976.

6. In the principal Act, in section 118,-

(1) to sub-section (1), the following proviso shall be added, namely:--

"Provided that if the State Government is satisfied that the circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.";

(2) in sub-section (2), after clause (xxi), the following clause shall be inserted, namely:--

"(xxi-a) the circumstances in which the period for inviting objections to the draft scheme may be reduced to fifteen days under section 47;".

Repeal and savings.

7. (1) The Gujarat Town Planning and Urban Development (Amendment) (Second) Ordinance, 2001 is hereby repealed. Guj. Ord. 9 of 2001.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The existing provisions of sections 17, 47 and 65 of the Gujarat Town Planning and Urban Development Act, 1976 prescribe time limits for town planning schemes.

In the State of Gujarat, there had been a devastating earthquake in the month of January, 2001 which had highly destructive effect on the buildings in the State and particularly in four towns of Kachchha district viz. Bhuj, Anjar, Bhachau and Rapar. A large part of the old city areas which had been destroyed are to be re-built and reconstructed immediately. For the safety of people, rescue operation and minimum dislocation, it is necessary to prepare a new town planning scheme in these areas. In order to complete the reconstruction work on priority basis, to provide houses to the people and to finalise the town planning schemes in short period, it was considered necessary to reduce the time limits prescribed in the Act.

The proviso to clause (e) of sub-section (1) of section 17 provides that the final development plan sanctioned by the State Government shall not be effective for the period of one month from the date of publication of the notification. Amendment to section 17 empowers the State Government to bring into force immediately the final development plan so sanctioned by it. Similarly, because of the time limit prescribed in clause (b) of sub-section (2) of section 65, the preliminary town planning scheme or the final town planning scheme sanctioned by the State Government does not become effective for a period of one month from the date of publication of the notification. Amendment to section 65 also empowers the State Government to bring into force immediately the preliminary town planning scheme, as the case may be, or the final town planning scheme, so sanctioned by it.

In order to submit the draft scheme early by the appropriate authority to the State Government, it was considered necessary to empower the appropriate authority to reduce the period of one month to fifteen days for inviting objections to the proposed draft scheme. The appropriate authority can exercise such powers only in such circumstances as may be prescribed and with the previous sanction of the Government. The proviso proposed to be added to section 47 provides accordingly.

With a view to enforcing the rules immediately, the power has been taken to dispense with the previous publication of the rules. The proviso proposed to be added to section 118 provides accordingly.

An opportunity is taken to correct the error of the reference of 'sub-section (1)' in sub-section (4) of section 6B.

As the Gujarat Legislative Assembly was not in session, the Gujarat Town Planning and Urban Development (Amendment) (Second) Ordinance, 2001 was promulgated to amend the said Act to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

INDRAVIJAYSINH JADEJA

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :-

Clause 4 :- The proviso proposed to be added to section 47, by this clause empowers the State Government to prescribe by rules, the circumstances in which The appropriate authority may reduce the period of one month to fifteen days for inviting objections to the draft scheme.

The delegation of the legislative powers as aforesaid is necessary and of a normal character.

Dated the 21st February, 2002.

INDRAVIJAYSINH JADEJA.

By order and in the name of the Governor of Gujarat,

V.M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 21st February, 2002.

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The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT STATE COMMISSION FOR WOMEN BILL, 2002.

GUJARAT BILL NO. 4 OF 2002.

A BILL

to provide for the constitution of a State level Commission for women and for the matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :-

Short title, extent and commencement.

1. (1) This Act may be called the Gujarat State Commission for Women Act, 2002.

(2) It extends to the whole of the State of Gujarat.

(3) It shall be deemed to have come into force on the 29th December, 2001.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Commission" means the Gujarat State Commission for Women constituted under section 3;

(b) "member" means a member of the Commission and includes the Chairperson and the member-secretary;

(c) "prescribed" means prescribed by rules;

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(d) "women" includes female-child and adolescent girl.

Constitution of Commission.

3. (1) The State Government shall, by notification in the *Official Gazette,* constitute a body to be known as "the Gujarat State Commission for Women".

(2) The Commission shall consist of,—

(a) a Chairperson, who shall be an eminent woman committed to the causes of women, to be nominated by the State Government;

(b) five members to be nominated by the State Government from amongst persons of ability, integrity and standing, who have served the cause of women and who have had sufficient knowledge and experience in law or legislation , sociology, advancement of women nutrition, trade unionism, management of an industry or organisation committed to increase the employment potential of women, women's voluntary organisations (including women activists), administration, economic development, health, education or social welfare:

Provided that one member shall be from amongst persons belonging to the Scheduled Castes or Scheduled Tribes:

Provided further that one member shall be from amongst the advocates;

(c) following *ex-officio* members—

(i) Director General of Police, Gujarat State,

(ii) Secretary to Government, Women and Child Development Department,

(iii) Secretary to Government, Finance Department,

(iv) Secretary to Government, Legal Department,

(v) Secretary to Government (Family Welfare), Health and Family Welfare Department,

(d) one Member-secretary to be nominated by the State Government from amongst the officers of the State Government, who is not below the rank of Joint Secretary to Government.

Terms of office and conditions of service of Chairperson and members.

4. (1) The Chairperson and the members other than those nominated by virtue of their office shall hold office for a period of three years.

(2) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and the members, shall be such as may be prescribed.

Resignation of Chairperson and member.

5. The Chairperson or a member may at any time resign his office by writing under his hand addressed to the State Government and on such resignation being accepted, he shall be deemed to have vacated his office.

Removal of Chairperson and member.

6. Notwithstanding anything contained in sub-section (1) of section 4, the State Government may remove the Chairperson, or as the case may be, a member from his office, if he,—

(a) is or has become subject to any disqualification mentioned in section 7;

(b) remains absent, without leave of the Commission for more than three consecutive meetings of the Commission;

(c) refuses to act or becomes incapable of acting;

(d) in the opinion of the State Government, has so abused the position of the Chairperson or, as the case may be, member, as to render his continuance in office detrimental to the public interest, or is otherwise unfit or unsuitable to continue as such Chairperson or, as the case may be, member:

Provided that the Chairperson or, as the case may be, any member shall not be removed under this clause until he has been given a reasonable opportunity of being heard.

Disqualification for being Chairperson or member.

7. A person shall be disqualified for being nominated as or for being a Chairperson or a non-official member, if he,—

(a) is or becomes an undischarged insolvent;

(b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude;

(c) becomes of unsound mind and stands so declared by a competent court.

Filling up of vacancies.

8. A vacancy arising by reason of death, resignation or removal of the Chairperson or any member under section 6 or otherwise shall be filled up in accordance with the provisions contained in section 3.

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Officers and other employees of Commission.

9. (1) The State Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

(2) The salaries and allowances payable to, and the other terms and conditions of service of the officers and other employees, shall be such as may be prescribed.

Salaries and allowances to be paid out of grants.

10. The salaries and allowances payable to the Chairperson and members and the administrative expenses, including salaries and allowances payable to the officers and other employees, shall be paid out of the grants made to the Commission under section 18.

Defect in appointment of Chairperson or member not to invalidate acts or proceedings.

11. (1) No act or proceeding of the Commission shall be questioned or invalid on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Commission.

(2) No act done by any person acting in good faith as Chairperson or member shall be deemed to be invalid merely on the ground that he was disqualified to be a Chairperson or a member or that there was any other defect in his nomination.

Constitution of ad hoc committee.

12. (1) The Commission may, for the purpose of transacting any business before it or for any special issue, constitute an *ad hoc* committee consisting of—

(a) not more than two members of the Commission; and

(b) not more than two experts on the particular subject before the Commission.

(2) If the Chairperson is a member of the committee, the Chairperson or in her absence any other member shall preside over the meeting of the Committee.

(3) The final report of the *ad hoc* committee shall be placed before the Commission for its approval and on the approval thereof by the Commission, it shall be deemed to be the report of the Commission.

(4) The person so associated shall be entitled to receive such allowances for attending the meeting of the Committee at such rate as may be prescribed.

Procedure to be regulated by Commission.

13. (1) The Commission or *ad hoc* Committee thereof shall meet at such time and such place as the Chairperson may think fit:

Provided that the Commission shall meet at least every quarter.

(2) The Commission shall determine procedure in regard to the transaction of its business at its meeting and meetings of the *ad hoc* committee appointed under section 12.

(3) Any order or decision of the Commission shall be authenticated by the member-secretary or any other officer of the Commission authorised in this behalf by the Chairperson.

Functions of Commission.

14. (1) The Commission shall have the following functions, namely:—

(a) to examine all matters relating to the safeguards provided for women under the Constitution of India and other laws;

(b) to present to the State Government annually and at such other times as the Commission may think fit, reports upon the working of such safeguards;

(c) to make in such reports recommendations for the effective implementation of such safeguards for improving the conditions of women by the State;

(d) to review from time to time, the existing provisions of laws relating to women and recommend amendments therein for the purpose of providing remedial legislative measures to meet with inadequate provisions of such laws;

(e) to take up the cases of violation of the provisions of the Constitution of India and of other laws relating to women with the appropriate authorities;

(f) to look into complaints and take suo moto notice of matters relating,—

(i) deprivation of women's rights;

(ii) non-implementation of laws enacted to provide protection to women and to achieve the objects of equality and development;

(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and to take up the issues arising out of such matters with appropriate authorities;

(g) to call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and to identify the constraints so as to recommend strategies for their removal;

(h) to undertake promotional and educational research for the purposes of,—

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(i) suggesting ways of ensuring due representation of women in all spheres;

(ii) identifying factors responsible for impeding their advancement, such as, lack of access to housing and basic services, inadequate support services and technology for reducing drudgery and occupational health hazards and for increasing their productivity;

(i) to participate and advise on the planning of socio-economic development of women;

(j) to evaluate the progress of the development of women under the State;

(k) to inspect or cause to be inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise, and to take up with the concerned authorities for remedial action, if necessary;

(l) to provide fund for litigation involving issues affecting a large body of women;

(m) to endeavour to promote through the media a more positive image or balanced depiction of women in society and continuously to interact, and try to educate the public opinion through media to enhance sensitivity to gender issues and bring about gender parity;

(n) to any other matter which may be referred to it by the State Government.

Powers of Commission.

15. The Commission shall, for the purposes of any inquiry under this Act, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely :— **V of 1908.**

(a) summoning and enforcing the attendance of any witness and examining him;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public records or copy thereof from any public office;

(e) issuing commissions for examination of witnesses:

Provided that the Commission shall not exercise aforesaid powers in respect of the matter which might be in conflict with said matter pending before the court of law.

16. The State Government may consult the Commission in respect of major policy matters affecting women. **Consultation with Commission.**

17. No suit, prosecution or other legal proceedings shall be instituted against the Chairperson or any member or any officer or other employee of the Commission or any person acting under the direction either of the State Government or of the Commission for anything which is in good faith done, or intended to be done under this Act or the rules or orders made thereunder. **Protection of action taken in good faith.**

18. (1) The State Government shall pay such amount to the Commission by way of grants, as it may think fit for the purposes of this Act. **Grants by State Government.**

(2) The Commission may, with the previous sanction of the State Government and subject to such terms and conditions as may be specified in this behalf by the Government accept funds from any national or international organization working in the field of women and child development, for achieving the objects of this Act.

(3) The Commission may spend such sums as it thinks fit for the performance of the functions under this Act out of the grants made to it and such sum shall be treated as the expenditure out of the grants.

19. (1) The Commission shall before such date as may be specified by the State Government, in each year, prepare and forward to the State Government,— **Preparation and submission of programme of work and annual statement of accounts.**

(i) a programme of work for the next year;

(ii) an annual statement of accounts for the next year.

(2) The programme of its work shall contain,—

(i) activities to be taken during the succeeding year;

(ii) such other particulars as may be prescribed.

(3) The annual statement of accounts shall contain a statement showing the receipt and expenditure on capital and revenue accounts for the next year.

(4) The State Government may sanction the programme and the annual statement of accounts forwarded to it with such modification as it thinks fit.

(5) The annual statement of accounts shall be prepared in such form as may be prescribed in consultation with the Accountant General of the State of Gujarat.

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Accounts and audit.

20. (1) The Commission shall maintain proper accounts and other relevant record in such manner as may be prescribed.

(2) The accounts of the Commission shall be audited by the Accountant General of the State at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Accountant-General.

(3) The Accountant General and any person appointed by him for the purpose of the audit of the accounts of the Commission under this Act shall have the same right and the privileges and the authority for such audit as the Accountant-General generally has for such audit of the Government accounts and in particular, shall have the right to demand production of books, accounts connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Accountant-General or any other person duly appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the State Government.

Concurrent and special audit of accounts.

21. (1) Notwithstanding anything contained in section 20, the State Government may order that there shall be a concurrent audit of the accounts of the Commission by such person, as it thinks fit. The State Government may also direct a special audit to be made by such person, as it thinks fit, of the accounts of the Commission relating to any particular transaction or a class of series of transactions or to a particular period.

(2) When an order is made under sub-section (1) the Commission shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purpose of audit.

Annual report.

22. The Commission shall prepare, its annual report for each financial year giving a full account of its activities during the previous financial year in such form and at such time as may be prescribed and forward a copy thereof to the State Government.

Annual report and audit report to be laid before State Legislature.

23. The State Government shall cause,—

(1) the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the State Government and the reasons for non-acceptance, if any, of such recommendation, and

(2) the audit report

to be laid as soon as may be, after the reports are received, before the State Legislature.

Chairperson, members and staff of Commission to be public servants.

24. The Chairperson, members, officers and other employees of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Power to make rules.

25. (1) The State Government may, by notification in the *Official Gazette,* make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the forgoing power, such rules may provide for all or any of the following matters, namely :—

(a) salaries and allowances payable to, and other terms and conditions of services of, the Chairperson and members, officers and other employees under sub-section (2) of section 4;

(b) allowances payable for attending the meeting of the *ad hoc* committee by the persons appointed under sub-section (1) of section 12;

(c) particulars of programmes of the work of Commission to be submitted to the State Government under sub-section (2) of section 19;

(d) the form in which the annual statement of accounts shall be maintained under sub-section (5) of section 19;

(e) the maintenance of accounts and other relevant record under sub-section (1) of section 20;

(f) any other matter which is to be or may be prescribed under this Act.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette,* and shall thereupon take effect.

Power to remove difficulties.

26. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provision not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of five years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before the State Legislature.

Power of State Government to give directions.

27. The State Government may, if it thinks fit, give directions to the Commission for carrying out execution of any of the provisions of this Act and the Commission shall be bound by such directions.

Repeal and savings.

28. (1) The Gujarat State Commission for Women Ordinance, 2001 is hereby repealed. **Guj. Ord. 10 of 2001.**

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

Vedic era was golden era so far as the equality of status and personal freedom of women are concerned, but gradually the status and position of women has deteriorated. The framers of the Constitution had realised the unequal social position of the women and assured to improve the status and dignity of women in the society. The State Government attaches great importance to the protection and advancement of women in all walks of life, fields of societies and to the upliftment of status and dignity of women in general in the society. The revolution towards gender equality must be propelled by a concrete strategy for accelerating programmes. Unequal status of women, ill-treatment and derogatory practices against the women and violation of the Constitutional provisions and other women welfare legislations make bare necessity to set up an independent statutory agency to carry out surveillance functions and to facilitate effective redressal of grievances of women. With a view to making regular surveillance on such violation of rights of women, the Government of India has set up a Commission for women at a national level. On the same lines, it was considered necessary to set up State level Commission for women for check on deprivation of such rights and having powers to recommend legislative amendments in women welfare legislations and judicial actions for redressal of grievances of women against deprivation of their rights and to take up such issues with the State Government or appropriate authority for effective remedial measures. It was also considered necessary that such body shall adequately be supported by the Government machinery.

Section 3 of the said Ordinance provides that the Commission shall consist of six *ex-officio* members. In the Bill, it is proposed to have five *ex-officio* members instead of six *ex-officio* members to the Commission.

As the Gujarat Legislative Assembly was not in session, the Gujarat State Commission for Women Ordinance, 2001 was promulgated to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses explain the important provisions of the Bill :-

Clause 2.— This clause defines certain terms used in the Bill.

Clause 3.— This clause provides for constitution of the Gujarat State Commission for Women.

Clause 4.—This clause provides for the term of office and the conditions of service of Chairperson and members of the Commission.

Clause 5.—This clause provides for the manner to be adopted for resignation by the Chairperson and member.

Clause 6.—This clause empowers the State Government to remove the Chairperson and member of the Commission.

Clause 7.—This clause provides for disqualification incurred by a person for being nominated as or for being a Chairperson or a non-official member.

Clause 8.—This clause provides for occurrence of vacancy of Chairperson or member and filling up of such vacancies.

Clause 9.— This clause provides for the appointment, salary and allowances payable to and terms and conditions of service of officers and employees of the Commission.

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Clause 10.—This clause provides that salary and allowances payable to the Chairperson, members, officers and other employees shall be paid out of the grants made to the Commission.

Clause 12.—This clause provides for the Constitution of *ad hoc* committee by the Commission for the purpose of transaction of any business before it or for any special issue thereof.

Clause 14.—This clause provides for the functions to be performed by the Commission.

Clause 15.—This clause provides for the powers of the Commission for holding inquiry under this Act.

Clause 16.—This clause provides for consultation by the State Government with the Commission on major policy matter affecting women.

Clause 17.—This clause provides for usual indemnity for acts done in good faith.

Clause 18.— This clause provides for payment of grants to the Commission by the State Government, acceptance of funds by the Commission and expenditure to be incurred out of the grants by the Commission.

Clause 19.—This clause provides for preparation of programme of work and annual statement of accounts by the Commission.

Clause 20.—This clause provides for maintenance of accounts and other records and audit thereof.

Clause 21.—This clause empowers the State Government to make order for the concurrent and special audit of accounts to be presented by the Commission to the State Government.

Clauses 22 and 23.—These clauses provide for preparation of an annual report of the Commission and laying the same before the State Legislature.

Clause 25.—This clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly for matters specified in sub-clause (2).

Clause 27.—This clause empowers the State Government to give directions to the Commission for carrying out execution of provisions of the Act.

ANANDIBEN PATEL

FINANCIAL MEMORANDUM

The Bill provides for payment of grant by the State Government, as it thinks fit, to enable the Commission to discharge its functions. Initially, the State Government intends to make a provision of rupees 40 lakhs by way of grant to the Commission for carrying out the purposes of the Act. The provision of clause 18, if enacted and brought into operation, would involve non-recurring expenditure of rupees 40 lakhs from the Consolidated Fund of the State.

ANANDIBEN PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :—

Clause 3.—Sub-clause (1) of this clause empowers the State Government to constitute, by notification in the *Official Gazette,* the Gujarat State Commission for Women.

Clause 4.—Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the salaries, allowances and other terms and conditions of service of the Chairperson and members.

Clause 9.—Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the salaries, allowances and the terms and conditions of services of the officers and employees of the Commission.

Clause 12.—Sub-clause (4) of this clause empowers the State Government to prescribe by rules, the rates of allowances payable to the person associated to the *ad hoc* Committee for attending the meeting.

Clause 19.—(i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, such other particulars to be included in programme of work;

(ii) sub-clause (5) of this clause empowers the State Government to prescribe by rules, form in which the annual statement of accounts shall be prepared.

Clause 20.—Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which accounts and other relevant record shall be maintained by the Commission.

Clause 22.—This clause empowers the State Government to prescribe by rules, the form in which and the time at which the annual report shall be prepared by the Commission.

Clause 25.—This clause empowers the State Government to make, by notification in the *Official Gazette,* rules generally for carrying out the purposes of the Act, and particularly for all or any of the matter specified in sub-clause (2).

Clause 26.—Sub-clause (1) of this clause empowers the State Government to make an order for removing the difficulty arising in giving effect to the provisions of the Act.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 22nd February, 2002. **ANANDIBEN PATEL.**

By order and in the name of the Governor of Gujarat,

Dated the 22nd February, 2002. **V.M. Kothare,**
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY CIVIL COURTS (GUJARAT AMENDMENT) BILL, 2002.

GUJARAT BILL NO. 5 OF 2002.

A BILL

further to amend the Bombay Civil Courts Act, 1869.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :—

Short title and commencement.

1. (1) This Act may be called the Bombay Civil Courts (Gujarat Amendment) Act, 2002.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 16 of XIV of 1869.

2. In the Bombay Civil Courts Act, 1869 (hereinafter referred to as "the principal Act"), in section 16, for the words "fifty thousand rupees", the words "one lac rupees" shall be substituted.

XIV of 1869.

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Amendment of section 24 of XIV of 1869.

3. In the principal Act, in section 24, for the words "fifty thousand rupees", the words "one lac rupees" shall be substituted.

Amendment of section 26 of XIV of 1869.

4. In the principal Act, in section 26, for the words "fifty thousand rupees", the words "one lac rupees" shall be substituted.

Amendment of section 28A of XIV of 1869.

5. In the principal Act, in section 28A, in sub-section (2), for the words "fifty thousand rupees", the words "one lac rupees" shall be substituted.

Transfer of pending cases.

6. All suits and proceedings of a civil nature wherein the subject matter exceeds in amount or value fifty thousand rupees but does not exceed one lac rupees pending in a Court of Civil Judge (Senior Division) immediately before the commencement of the Bombay Civil Courts (Gujarat Amendment) Act, 2002, shall after such commencement, stand transferred to, and be disposed of by a Civil Judge (Junior Division) within the local limits of his ordinary jurisdiction. **Guj. of 2002.**

STATEMENT OF OBJECTS AND REASONS

Since 1993, under the existing provisions of the Bombay Civil Courts Act, 1869, the pecuniary jurisdiction of a Civil Judge (Junior Division)extends to all original suits and proceedings of a civil nature is upto rupees fifty thousand. Considering this aspect and in view of the fall in the purchase value of the rupee and the appreciation in value of immovable property including land, and rise in the price of goods, it is considered necessary to raise such pecuniary jurisdiction of Courts of Civil Judge (Junior Division) from fifty thousand rupees to one lac rupees.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

HEMANT CHAPATWALA

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative power in the following respect :—

Clause 1.—Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Offical Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 25th February, 2002. **HEMANT CHAPATWALA.**

By order and in the name of the Governor of Gujarat,

V.M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated 26th February, 2002.

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE PROVINCIAL SMALL CAUSE COURTS (GUJARAT AMENDMENT) BILL, 2002.

GUJARAT BILL NO. 7 OF 2002.

A BILL

further to amend the Provincial Small Cause Courts Act, 1887 in its application to the State of Gujarat.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :-

Short title and commencement.

1. (1) This Act may be called the Provincial Small Cause Courts (Gujarat Amendment) Act, 2002.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 15 of IX of 1887.

IX of 1887. **2.** In the Provincial Small Cause Courts Act, 1887 (hereinafter referred to as "the principal Act"), in its application to the State of Gujarat, in section 15, in sub-section (3), for the words "two thousand rupees", the words "two lacs rupees" shall be substituted.

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Transfer of pending cases.

3. All suits and applications of a civil nature wherein the subject matter exceeds in amount or value two thousand rupees but does not exceed two lacs rupees pending in the District Court immediately before the commencement of the Provincial Small Cause Courts (Gujarat Amendment) Act. 2002, shall after such commencement stand transferred to, and be disposed of by the Judge, Small Cause Court within the local limit of his ordinary jurisdiction. **Guj. of 2002.**

STATEMENT OF OBJECTS AND REASONS

Since 1961, under the existing provisions of the Provincial Small Cause Courts Act, 1887, the pecuniary jurisdiction of the all suits of a civil nature is upto rupees two thousand. Considering this aspect and in view of the fall in the purchase value of the rupee and the appreciation in value of immovable property including land, and rise in the price of goods, it is considered necessary to raise such pecuniary jurisdiction of Courts of Small Cause from two thousand rupees to two lacs rupees. This Bill seeks to amend the said Act to achieve the aforesaid object.

HEMANT CHAPATWALA

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative power in the following respects :-

Clause 1.— Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which this Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 25th February, 2002. **HEMANT CHAPATWALA.**

By order and in the name of the Governor of Gujarat,

V.M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
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Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

THE BOMBAY MOTOR VEHICLES TAX (GUJARAT AMENDMENT) BILL, 2002.

GUJARAT BILL NO. 8 OF 2002.

A BILL

further to amend the Bombay Motor Vehicles Tax Act, 1958.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :—

Short title and commencement.

1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 2002.

(2) It shall come into force on the 1st April, 2002.

Amendment of First Schedule of Bom. LXV of 1958.

Bom. LXV of 1958.

2. In the Bombay Motor Vehicles Tax Act, 1958, in the First Schedule, in Part-I,-

(1) after clause IV, the following clause shall be inserted, namely :-

"IVAA. Sleeper designated omnibuses—

(a)	Sleeper designated omnibuses licensed to carry not more than twenty passengers	Rs.13,000 per passenger which the vehicle is licensed to carry.
(b)	Sleeper designated omnibuses licensed to carry more than twenty passengers.	Rs. 18,000 per passenger which the vehicle is licensed to carry.";

(2) before *Explanation 1*, the following *Explanation* shall be inserted, namely :-

"Explanation IA.—For the purposes of clause IVAA "sleeper designated omnibus" means a contract carriage constructed or adapted to provide berths for passengers to sleep thereon.".

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Bombay Motor Vehicles Tax Act, 1958 with a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Legislative Assembly on the 27th February, 2002.

Dated the 14th March, 2002. NARAYANBHAI PATEL.

By order and in the name of the Governor of Gujarat,

V. M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parlamentary Affairs Depgrtment.

Gandhinagar,
Dated the 15th March, 2002.

Government Centeal Press, Gandhinagar.

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Extra No. 9 REGISTERED NO. G/GNR/2

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The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY MOTOR VEHICLES TAX (GUJARAT AMENDMENT AND VALIDATION) BILL, 2002.

GUJARAT BILL NO. 9 OF 2002.

A BILL

further to amend the Bombay Motor Vehicles Tax Act, 1958 and to validate imposition and collection of tax on designated omnibuses.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :-

Short title and commencement.

1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat Amendment and Validation) Act, 2002.

(2) This section and sections 2 and 3, sub-clause (a) of clause (1) of section 4 and sections 5, 6, 8 and 9 except sub-section (2) thereof, and section 10 shall come into force at once, and section 4 except sub-clause (a) of clause (1) thereof, section 7 and sub-section (2) of section 9 shall be deemed to have come into force on the 17th August, 2001.

Amendment of section 3 of Bom. LXV of 1958.

Bom. LXV of 1958.

2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as "the principal Act"), in section 3, sub-section (3) shall be deleted.

Deletion of section 3A of Bom. LXV of 1958.

3. In the principal Act, section 3A shall be deleted.

Amendment of section 4 of Bom. LXV of 1958.

4. In the principal Act, in section 4,—

(1) in sub-section (1AA), in the table,—

(a) in entry (a), in column 1, the words and letter "under the heading A. Motor vehicles fitted solely with pneumatic tyres" shall be deleted;

(b) for entry (b), the following entry shall be substituted, namely:--

"(b) designated omnibuses specified in clauses IVAA and IVAAA in Part I of the First Schedule.	Annually or in monthly instalments of one-twelfth of the annual rate.";

(2) after sub-section (1AA), the following sub-section shall be inserted, namely:-

"(1AAA) Notwithstanding anything contained in entry (b), in the table below sub-section (1AA)—

(a) the amount of tax leviable on designated omnibus brought for use in the State for a temporary period not exceeding seven days shall be four per cent of the annual rate of tax per passenger which the designated omnibus is licensed to carry;

(b) where such designated omnibus is to be used or kept for use in the State for a period exceeding seven days, the tax shall be leviable on such vehicle at the rate of one-twelfth of the annual rate of tax for each month or part thereof.";

(3) the following *Explanation* shall be added at the end, namely:—

"***Explanation***.—For the purposes of this section, sub-section (6) of section 9 and clause IV in Part-I of the First Schedule, the expression "designated omnibus" means an omnibus which is used or kept for use in the State exclusively as contract carriage and includes a sleeper designated omnibus.".

Amendment of section 9 of Bom. LXV of 1958.

5. In the principal Act, in section 9, after sub-section (5), the following sub-section shall be added, namely:—

" (6) Where a registered owner or any person in possession or control of a designated omnibus has paid tax at the annual rate or in monthly instalments of one-twelfth of the annual rate in respect of that designated omnibus and proves to the satisfaction of the Taxation Authority that,-

(a) that designated omnibus has not been used or kept for use for a continuous period of not less than one month (hereinafter referred to as "the period of non-use"), or

(b) that designated omnibus has been taken out of the State for a continuous period of not less than fifteen days in a month –

(i) in the case of (a), such owner or person shall be entitled to refund of an amount at the rate of one-twelfth of the annual rate of tax paid for each complete month of the period of non-use, and

(ii) in the case of (b), such owner or person shall be entitled to refund of an amount equal to one day's tax of the monthly installment of tax paid for each day of the period for which the designated omnibus is taken out of the State.".

Amendment of section 18 of Bom. LXV of 1958.

6. In the principal Act, in section 18,—

(1) after sub-section (1), the following sub-sections shall be inserted, namely:--

"(1A) Where a registered owner or any person in possession or control of a motor vehicle who is required not to use or to keep for use such vehicle for a specified period in accordance with a declaration given by him to the Taxation Authority uses or keeps for use such vehicle at any time during such period, the Taxation Authority may levy in addition to the tax leviable on the vehicle for the period for which the vehicle was used or kept for use a penalty equal to twice the amount of tax so leviable.

(1B) Where penalty is leviable under both sub-sections (1) and (1A), it shall be levied under sub-section (1A) and not under sub-section (1).";

(2) in sub-section (2), after the words, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or sub-section (1A)" shall be inserted.

Amendment of First Schedule of Bom. LXV of 1958.

7. In the principal Act, in the First Schedule, in Part-I,--

(1) in clause IV, in the heading, the words "other than designated omnibuses" shall be added at the end;

(2) after clause IV-AA, the following clause shall be inserted, namely:-

"IV-AAA. Omnibuses which are used or kept for use exclusively as contract carriages (hereinafter in this clause referred to as "the designated omnibuses")—

(a)	(i)	Ordinary designated omnibuses licensed to carry not more than twenty passengers	3800 for every passenger which the vehicle is so licensed to carry.
	(ii)	Ordinary designated omnibuses licensed to carry more than twenty passengers	6000 for every passenger which the vehicle is so licensed to carry.
(b)	(i)	Luxury or tourist designated omnibuses	6500 for every passenger which the vehicle is so

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	licensed to carry not more than twenty passengers	licensed to carry.
(ii)	Luxury or tourist designated omnibuses licensed to carry more than twenty passengers	9000 for every passenger which the vehicle is so licensed to carry.";

(3) after *Explanation 1A*, the following explanation shall be inserted, namely:--

"Explanation 1AA.--For the purpose of clause IV-AAA "Luxury designated omnibus" means any omnibus having seating lay out of two and two or one and three or one and two or one and one on either side with a gang way of any width in between though any one row of seats in such omnibus may consist of more than four seats."

Validation of imposition and collection of tax on designated omnibuses.

8. (1) Notwithstanding any judgement, decree or order of any court, tax imposed, assessed or collected or purporting to have been imposed, assessed or collected under the principal Act, on designated omnibuses during the period beginning with 1st day of April, 1991 and ending on the 16th day of August, 2001, shall be deemed to have been validly imposed, assessed or collected in accordance with law as if at all material times when such tax was imposed, assessed or collected, the principal Act as amended by sections 2, 3, and 4 except sub-clause (a) of clause (1) thereof and section 7 of this Act and section 9 had been in force and accordingly—

(a) no suit or other proceeding shall be maintained or continued in any court for the refund of any tax paid in respect of designated omnibus under the principal Act,

(b) no court shall enforce a decree or order directing the refund of any tax paid in respect of designated omnibus under the principal Act,

(c) any tax imposed or assessed in respect of designated omnibus under the principal Act during the period beginning from the 1st day of April, 1991 and ending on the 16th day of August, 2001 but not collected before 17th day of August, 2001 may be recovered (after assessment of tax where necessary) in the manner provided in the principal Act.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person—

(a) from questioning in accordance with the provisions of the principal Act and rules made thereunder the assessment of tax on designated omnibus for any period, or

(b) from claiming refund of any tax paid by him on designated omnibuses in excess of the amount due from him under the principal Act and the rules made thereunder.

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9. (1) Subject to the other provisions of the principal Act as amended by this Act - **Levy of tax on designated omnibuses.**

(a) on and from 1st day of April, 1991 till the 31st day of July, 1995 there shall be deemed to have been levied and collected on all designated omnibuses which were used or kept for use in the State during the said period a tax at the rates specified in the table below:-

TABLE

	Description of designated omnibuses	Annual rate of tax
1	Ordinary designated omnibuses	Rs.1500 for every passenger which the vehicle was licensed to carry.
2	Luxury or tourist designated omnibuses	Rs.2700 for every passenger which the vehicle was licensed to carry.

(b) (i) on and from 1st day of August, 1995 till the 31st day of March, 2000 there shall be deemed to have been levied and collected on all designated omnibuses which were used or kept for use in the State during the said period, a tax at the rates specified in the table below:-

TABLE

		Description of designated omnibuses	Annual rate of tax
1	(a)	Ordinary designated omnibuses licensed to carry not more than twenty passengers	Rs.2000 for every passenger which the vehicle was licensed to carry.
	(b)	Ordinary designated omnibuses licensed to carry more than twenty passengers	Rs.3000 for every passenger which the vehicle was licensed to carry.
2		Luxury or tourist designated omnibuses licensed to carry more than twenty passengers	Rs.4000 for every passenger which the vehicle was licensed to carry.

(ii) there shall be deemed to have been levied and collected on all luxury or tourist omnibuses used or kept for use in the State and licensed to carry not more than twenty passengers a tax --

(a) during the period commencing on and from 1st day of August, 1995 and ending on the 31st day of March, 1996 at the annual rate of Rs. 3600 for every passenger which the vehicle was licensed to carry, and

(b) during the period commencing on and from 1st day of April, 1996 and ending on the 31st day of March, 2000 at the

annual rate of Rs. 3000 for every passenger which the vehicle was licensed to carry;

(c) on and from 1st day of April, 2000 till the 24th day of October, 2000, there shall be deemed to have been levied and collected on all designated omnibuses which were used or kept for use in the State during the said period, a tax at the rates specified in the table below:-

TABLE

		Description of designated omnibuses	Annual rate of tax
1	(a)	Ordinary designated omnibuses licensed to carry not more than twenty passengers	Rs.3000 for every passenger which the vehicle was licensed to carry.
	(b)	Ordinary designated omnibuses licensed to carry more than twenty passengers	Rs.4500 for every passenger which the vehicle was licensed to carry.
2	(a)	Luxury or tourist designated omnibuses licensed to carry not more than twenty passengers	Rs.4500 for every passenger which the vehicle was licensed to carry.
	(b)	Luxury or tourist designated omnibuses licensed to carry more than twenty passengers	Rs.6000 for every passenger which the vehicle was licensed to carry.

(d) on and from 25th day of October, 2000 till the 16th day of August, 2001 there shall be deemed to have been levied and collected on all designated omnibuses which were used or kept for use in the State during the said period, a tax at the rates specified in the table below:-

TABLE

		Description of designated omnibuses	Annual rate of tax
1	(a)	Ordinary designated omnibuses licensed to carry not more than twenty passengers	Rs.2700 for every passenger which the vehicle was licensed to carry.
	(b)	Ordinary designated omnibuses licensed to carry more than twenty passengers	Rs.4050 for every passenger which the vehicle was licensed to carry.
2	(a)	Luxury or tourist designated omnibuses licensed to carry not more than twenty passengers	Rs.4500 for every passenger which the vehicle was licensed to carry.
	(b)	Luxury or tourist designated omnibuses licensed to carry more than twenty passengers	Rs.6000 for every passenger which the vehicle was licensed to carry.

(2) Subject to the other provisions of the principal Act as amended by this Act there shall be levied and collected on all designated omnibuses used or kept for use in the State, a tax at the rates specified in the table below till the rates are fixed by the State Government, by notification in the *Official Gazette*, under section 3 of the principal Act as amended by this Act:-

TABLE

		Description of designated omnibuses	Annual rate of tax
1	(a)	Ordinary designated omnibuses licensed to carry not more than twenty passengers	Rs.2700 for every passenger which the vehicle is licensed to carry.
	(b)	Ordinary designated omnibuses licensed to carry more than twenty passengers	Rs.3600 for every passenger which the vehicle is licensed to carry.
2	(a)	Luxury or tourist designated omnibuses licensed to carry not more than twenty passengers	Rs.4500 for every passenger which the vehicle is licensed to carry.
	(b)	Luxury or tourist designated omnibuses licensed to carry more than twenty passengers	Rs.6000 for every passenger which the vehicle is licensed to carry.

Explanation I.- For the purposes of this section and section 10 "designated omnibus" means an omnibus which is used or kept for use in the State exclusively as contract carriage;

Explanation II.-For the purposes of this section "Luxury designated omnibus" means any omnibus having seating layout of two and two or one and three or one and two or one and one on either side with a gangway of any width in between though any one row of seats in such omnibus may consist of more than four seats.

Adjustment of the amount of tax paid on designated omnibuses under section 3 of the principal Act.

10. Any amount of tax paid on designated omnibuses under section 3 of the principal Act read with clause IV in Part-I of the First Schedule thereof in respect of the period commencing from the 17th day of August, 2001 and ending on the date of the first publication of the Bombay Motor Vehicles Tax (Gujarat Amendment and Validation) Act, 2002 in the *Official Gazette* or part of such period shall be reckoned as the amount of tax paid on such designated omnibuses in respect of the said period or part thereof under sub-section (2) of section 9.

Guj. of 2002.

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STATEMENT OF OBJECTS AND REASONS

In the case of Akhil Gujarat Pravasi Vahan Sanchalak Mahamandal Vs. State of Gujarat being Special Civil Applications No.1288 of 2001, No.1421 of 2001 and No.3137 of 2001, the Gujarat High Court, by its judgement delivered on 17th August, 2001, has held sub-sections (1) and (2) of section 3A of the Bombay Motor Vehicles Tax Act, 1958 to be *ultra vires* and beyond the competence of the State Legislature on the ground that the tax levied under sub-section (1) of the said section 3A being a composite tax is violative of entries 56 and 57 in List II of the Seventh Schedule to the Constitution and sub-section (2) of the said section 3A to be *ultra vires* the Constitution and bad in law and violative of article 19(1)(g) of the Constitution. This decision of the Gujarat High Court invalidates the levy and collection of tax on designated omnibuses under sub-section (1) of the said section 3A. The total tax collected by the State Government on designated omnibuses since the 1st April, 1991 runs to about 492 crores of rupees. Unless the tax levied and collected under the impugned provision is validated, the State Government would have to refund the entire amount of tax so levied and collected. As the State Legislature is competent to levy the tax on motor vehicles under the said entry 57 read with clause (1) of article 245 and clause (3) of article 246 of the Constitution, this Bill seeks to validate the tax imposed, assessed or collected on the designated omnibuses during the period from the 1st April, 1991 to 16th August, 2001, the date immediately before the date of the judgement.

2. *Clauses 2* and *4* of the Bill seek to make amendments in sections 3 and 4 of the said Act; clause 3 seeks to delete section 3A of the said Act and clause 7 seeks to amend the First Schedule to the said Act to add a new clause IVAAA in the said Schedule, as a consequence of sub-sections (1) and (2) of the said section 3A being held invalid by the High Court by the said judgement.

3. *Clause 5* of this Bill seeks to add new sub-section (6) in section 9 of the Act so as to provide for refund in the case of a designated omnibus being not used or kept for use in the State or such omnibus being taken out of the State.

4. *Clause 6* of this Bill seeks to insert a new sub-section (1A) in section 18 of the said Act with a view to levying a penalty equal to twice the amount of tax on the registered owner or any person in possession or control of a motor vehicle for use or keeping for use such vehicle in respect of which such owner or person has given a declaration to the Taxation Authority that he is not to use or to keep for use such vehicle.

5. *Clause 8* of this Bill seeks to make a validating provision.

6. *Sub-clause (1)* of *clause 9* of this Bill seeks to levy tax retrospectively for different periods from 1st April, 1991 to 16th August, 2001 for the purpose of validating the same. Sub-clause (2) of the said clause 9 seeks to levy tax till the rates are fixed by the State Government by notification in the *Official Gazette*, under sub-section (1) of section 3 of the Act. The said sub-clause (2) is given retrospective effect from 17th August, 2001.

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7. On the invalidation of sub-sections (1) and (2) of section 3A of the said Act, the State Government has levied and collected tax on designated omnibuses under sub-section (1) of section 3 of the said Act read with clause IV in Part I of the First Schedule to the said Act from the period commencing from 17th day of August, 2001. It is, therefore, considered necessary to provide for the adjustment of the tax so collected against the tax levied on designated omnibuses under sub-clause (2) of clause 9 of this Bill. Clause 10 of this Bill provides accordingly.

8. This Bill seeks to amend the said Act and to validate the levy and collection of tax on designated omnibuses held invalid by the said judgement.

Dated the 15th March, 2002. **NARAYANBHAI PATEL.**

By order and in the name of the Governor of Gujarat,

V.M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 16th March, 2002.

Government Centeal Press, Gandhinagar.

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The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT (SUPPLEMENTARY) APPROPRIATION

BILL, 2002.

GUJARAT BILL NO. 10 OF 2002.

A BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty - first day of March, 2002.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :-

Short title.

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 2002.

Issue of Rs.1,28,86,11,47,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 2001-2002.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of twelve thousand eight hundred eighty-six crores, eleven lakhs, forty-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year ending on the thirty-first day of March, 2002, in respect of the services and purposes specified in column 2 of the Schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

SCHEDULE
(*See* sections 2 and 3)

No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged* on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
2	Agriculture	Revenue	8,000	0	8,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	11,67,000	0	11,67,000
4	Aniamal Husbandry and Dairy Development	Revenue	5,80,41,000	0	5,80,41,000
		Capital	1,30,84,000	0	1,30,84,000
5	Co-operation	Revenue	0	2,000	2,000
8	Education	Revenue	1,000	12,00,00,000	12,00,01,000
12	Energy Projects	Revenue	2,57,37,00,000	0	2,57,37,00,000
		Capital	9,83,20,000	0	9,83,20,000
15	Tax Collection Charges (Finance Department)	Revenue	2,48,75,000	0	2,48,75,000
16	Treasury and Accounts Administration	Revenue	3,000	0	3,000
18	Other expenditure pertaining to Finance Department	Revenue	1,000	0	1,000
19	Repayment of debt pertaining to Finance Department and its servicing	Revenue	0	1,25,54,06,000	1,25,54,06,000
		Capital	0	1,21,36,75,49,000	1,21,36,75,49,000
25	Forests	Revenue	7,59,79,000	1,59,000	7,61,38,000
		Capital	1,000	0	1,000
30	Elections	Revenue	3,000	0	3,000
31	Public Service Commission	Revenue	17,000	23,70,000	23,87,000
32	General Administration Department	Revenue	1,000	0	1,000
34	Other expenditure pertaining to General Administration Department	Capital	1,64,85,000	0	1,64,85,000
38	Medical and Public Health	Revenue	4,000	15,000	19,000
39	Family Welfare	Revenue	5,34,41,000	0	5,34,41,000

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No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged* on the Consolidated Fund	Total
1	2		3		
			Rs.	Rs.	Rs.
44	Transport	Revenue	72,49,000	0	72,49,000
46	Other expenditure pertaining to Home Department	Revenue	2,000	0	2,000
47	Industries and Mines Department	Revenue	1,000	0	1,000
49	Industries	Revenue	1,000	0	1,000
54	Information and Publicity	Revenue	1,06,51,000	0	1,06,51,000
57	Labour and Employment	Revenue	1,000	0	1,000
60	Administration of Justice	Revenue	3,000	89,21,000	89,24,000
65	Narmada Development Scheme	Capital	0	25,000	25,000
66	Irrigation and Soil Conservation	Revenue	2,000	7,27,000	7,29,000
		Capital	0	49,39,000	49,39,000
67	Water Supply	Revenue	15,00,00,000	0	15,00,00,000
		Capital	85,70,15,000	0	85,70,15,000
68	Other expenditure pertaining to to Narmada, Water Resources and Water Supply Department	Revenue	0	95,39,000	95,39,000
70	Community Development	Revenue	11,05,69,000	0	11,05,69,000
71	Rural Housing and Rural Development	Revenue	45,60,07,000	0	45,60,07,000
72	Compensation and Assignments	Revenue	6,51,55,000	0	6,51,55,000
76	Revenue Department	Revenue	19,50,000	0	19,50,000
78	District Administrartion	Revenue	1,000	64,000	65,000
79	Relief on account of Natural Calamities	Revenue	1,000	0	1,000
80	Dangs Disrict	Revenue	2,83,97,000	0	2,83,97,000
81	Compensation and Assignments	Revenue	1,80,97,000	1,43,000	1,82,40,000
		Capital	28,62,000	0	28,62,000
82	Other expenditure pertaining to Revenue Department	Revenue	1,65,000	0	1,65,000

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No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged* on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
84	Non-Residential Buildings	Revenue	0	10,59,000	10,59,000
		Capital	5,12,000	46,69,000	51,81,000
85	Residential Buildings	Revenue	0	16,000	16,000
86	Roads and Bridges	Revenue	0	2,42,000	2,42,000
		Capital	10,52,000	35,58,000	46,10,000
87	Gujarat Capital Construction Scheme	Capital	0	3,47,000	3,47,000
88	Other expenditure pertaining to Roads and Buildings Department	Revenue	0	75,31,000	75,31,000
90	Social Security and Welfare	Revenue	0	88,000	88,000
93	Special Component Plan for Scheduled Castes	Revenue	4,000	0	4,000
		Capital	1,07,000	0	1,07,000
94	Tribal Area Sub-Plan	Revenue	3,000	73,04,000	73,07,000
		Capital	0	17,31,000	17,31,000
96	Youth Services and Cultural Activities	Revenue	4,000	0	4,000
100	Urban Development	Revenue	1,43,90,81,000	0	1,43,90,81,000
102	Other expenditure pertaining to Urban Development and Urban Housing Department	Revenue	7,20,000	0	7,20,000
	Total:	**Revenue :**	**5,07,53,05,000**	**1,41,35,86,000**	**6,48,88,91,000**
		Capital :	**98,94,38,000**	**1,21,38,28,18,000**	**1,22,37,22,56,000**
	Grand Total:-		**6,06,47,43,000**	**1,22,79,64,04,000**	**1,28,86,11,47,000**

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STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 204 of the Constitution of India read with article 205 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the supplementary expenditure on certain services and purposes in relation to the financial year ending on the thirty-first day of March, 2002.

	The amounts are shown below :-	Rs.
(a)	Revenue Expenditure	6,48,88,91,000
(b)	Capital Expenditure	1,22,37,22,56,000
	Total :	1,28,86,11,47,000

Dated the 20 March, 2002.

NITIN PATEL.

By order and in the name of the Governor of Gujarat,

V.M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 21st March, 2002.

Government Centeal Press, Gandhinagar.

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Extra No. 11 REGISTERED NO. G/GNR/2

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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol XLIII] THURSDAY, MARCH 21, 2002/PHALGUNA 30, 1923

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS (AMENDMENT) BILL, 2002.

GUJARAT BILL NO. 41 OF 2002.

A BILL

further to amend the Gujarat State Tax on Professions, Trades, Callings and Empolyments Act, 1976.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :-

Short title and commencement.

1. (1) This Act may be called the Gujarat State Tax on Professions, Trades, Callings and Empolyments (Amendment) Act, 2002.

(2) It shall come into force on the 1st April, 2002.

Amendment of Schedule I to President's Act 11 of 1976.

2. In the Gujarat State Tax on Professions, Trades, Callings and Empolyments Act, 1976, in Schedule I, in entry at Sr. No. 2, in clause (1),– **President's Act 11 of 1976.**

(1) item (e) shall be deleted ;

(2) after item (g), the following items shall be added, namely :-

"(h) Automobile Brokers.
(i) Tour Operators or Travel Agents.
(j) Cable TV Operators.
(k) Film Distributors.
(l) Owners of Advertising Agencies.

(m) Owners of Tuition Classes or Tutorial Institutions.
(n) Owners of Institutes or Service Providers engaged in computer education or training, or online information and database service through computer network.
(o) Owners of Driving Schools.
(p) Owners of Marriage Halls and Party Halls.
(q) *Angadia* or Courier Service Providers.
(r) Owners of Health Clubs and Recreation Clubs.".

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STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976, with a view to giving effect to the proposal contained in the Budget speech of the Finance Minister in the Gujarat Legislative Assembly on the 27th February, 2002.

Dated the 21st March, 2002. **NITIN PATEL.**

By order and in the name of the Governor of Gujarat,

V.M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 21st March, 2002.

Government Centeal Press, Gandhinagar.

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PART - V

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(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT SALES TAX (AMENDMENT) BILL, 2002.

GUJARAT BILL NO. 12 OF 2002.

A BILL

further to amend the Gujarat Sales Tax Act, 1969.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :-

Short title and commencement.

1. (1) This Act may be called the Gujarat Sales Tax (Amendment) Act, 2002.

(2) It shall come into force on the 1st April, 2002.

Amendment of section 2 of Guj. 1 of 1970.

Guj. 1 of 1970.

2. In the Gujarat Sales Tax Act, 1969 (hereinafter referred to as the "the principal Act"), in section 2, in clause 21,-

(i) the figures "20, 21, " shall be deleted;

(ii) for the words and figures "entries 1 and 7", the word and figure "entry 7" shall be substituted.

Amendment of section 4A of Guj. 1 of 1970.

3. In the principal Act, in section 4A, in sub-section(1), for the words and figures "for a period of two years from the date of commencement of the Gujarat Sales Tax (Second Amendment) Act, 2000", the words and figures "for the period beginning from the date of commencement of the Gujarat Sales Tax (Second Amendment) Act, 2000 and ending on the 28th February, 2003," shall be substituted. Guj. 9 of 2000. Guj. 9 of 2000.

Amendment of section 30A of Guj. 1 of 1970.

4. In the principal Act, in section 30A, to sub-section (4), following proviso shall be added, namely:–

"Provided that where any registered dealer who failed to make an application under sub-section (2) within the period prescribed therefor but has applied before the 31st March, 2002, the Commissioner shall impose upon such dealer by way of penalty, a sum of rupees fifty for every day after the expiry of the period prescribed under sub-section (2), subject to maximum of rupees one thousand, for making such application after the prescribed period.".

Amendment of section 31AA of Guj. 1 of 1970.

5. In the principal Act, in section 30AA, after sub-section (2A), the following sub-section shall be inserted, namely :-

"(2B) Where any registered dealer fails to make an application as required under sub-section (2) of section 30A on or before the 31st March, 2002, the Commissioner shall cancel his registration with effect from the 1st April, 2002:

Provided that notwithstanding the cancellation of certificate of registration under this sub-section, the liability of the dealer shall continue in respect of any tax, penalty or interest for any period prior to the date of the order of the Commissioner cancelling the certificate of registration.".

Amendment of section 41AA of Guj. 1 of 1970.

6. In the principal Act, in section 41AA,–

(1) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) Notwithstanding anything contained in sub-sections (2) and (3) of section 41, where any dealer has furnished the declarations or returns in respect of any specified period by such dates as prescribed therefor and paid the amount of tax due according to such declaration or return within the time prescribed by or under the Act and whose tax payable for the specified period to which the declaration or return relates does not exceed five lakh rupees, the amount of tax due from the dealer in respect of such declaration or return shall, irrespective of whether a notice under sub-section (3) of section 41 is issued or not, be deemed to have been assessed, if the dealer at his option makes payment of the amount equal to five per cent. of the tax so payable for each specified period in the Government treasury on or before the 30th September, 2002." ;

(2) in sub-section (2), the words, brackets and letters "clause (a) or (b) of " shall be deleted.

Amendment of Schedule II Part A to Guj. 1 of 1970.

7. In the principal Act, in Schedule II, in Part A,–

(1) in the entry at serial No. 73, in columns 3 and 4, for the words "Six paise", the words "Four paise" shall be substituted;

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(2) the entry at serial No. 133A shall be renumbered as sub-entry (i) of that entry and after the sub-entry (i) as so renumbered, the following sub-entry shall be added, namely:-

1.	2.	3.	4.
"(ii)	Coconut *(Copra)* excluding tender Coconuts	Four paise in the rupee.	Four paise in the rupee.";.

(3) in the entry at serial No. 140,-

(i) in sub-entry (ii), in columns 3 and 4, for the words "Twelve paise", the words "Eight paise" shall be substituted;

(ii) in sub-entry (iii), in columns 3 and 4, for the words "Six paise", the words "Eight paise" shall be substituted;

(4) in the entry at serial No. 166, in columns 3 and 4, for the words "Six paise", the words "Four paise" shall be substituted.

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STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Gujarat Sales Tax Act, 1969, with a view to giving effect to the proposal contained in the Budget speech of the Finance Minister in the Legislative Assembly on the 27th February, 2002.

Dated the 21st March, 2002. **NITIN PATEL.**

By oraer and in the name of the Governor of Gujarat,

V.M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 21st March, 2002.

Government Centeal Press, Gandhinagar.

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT TAX ON SALE OF ELECTRICITY (REPEAL) BILL, 2002.

GUJARAT BILL NO. 43 OF 2002.

A BILL

to repeal the Gujarat Tax on Sale of Electricity Act, 1985.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :-

Short title.

1. This Act may be called the Gujarat Tax on Sale of Electricity (Repeal) Act, 2002.

Repeal of Guj. 5 of 1985.

2. On and from the 1st April, 2002, the Gujarat Tax on Sale of Electricity Act, 1985 shall stand repealed. **Guj. 5 of 1985.**

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STATEMENT OF OBJECTS AND REASONS

This Bill seeks to repeal the Gujarat Tax on Sale of Electricity Act, 1985, with a view to giving effect to the proposal contained in the Budget speech of the Finance Minister in the Gujarat Legislative Assembly on the 27th February, 2002.

Dated the 21st March, 2002. **KAUSHIK PATEL.**

By order and in the name of the Governor of Gujarat,

V.M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 21st March, 2002.

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY ELECTRICITY DUTY (GUJARAT AMENDMENT) BILL, 2002.

GUJARAT BILL NO. 14 OF 2002.

A BILL

further to amend the Bombay Electricity Duty Act, 1958.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :-

Short title and commencement.

1. (1) This Act may be called the Bombay Electricity Duty (Gujarat Amendment) Act, 2002.

(2) It shall come into force on the 1st April, 2002.

Amendment of Schedule I to Bom. XL of 1958.

Bom. XL of 1958.

2. In the Bombay Electricity Duty Act, 1958, in Schedule I, in Part I, in item (7), in column 2, for the figure and word "60 per cent.", the figure and word "45 per cent." shall be substituted.

INDEX

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Bombay Electricity Duty Act, 1958, with a view to giving effect to the proposal contained in the Budget speech of the Finance Minister in the Gujarat Legislative Assembly on the 27th February, 2002.

Dated the 21st March, 2002. **KAUSHIK PATEL.**

By order and in the name of the Governor of Gujarat,

V.M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 21st March, 2002.

Government Centeal Press, Gandhinagar.

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY STAMP (GUJARAT AMENDMENT) BILL, 2002.

Gujarat Bill No. 15 of 2002.

A BILL

further to amend the Bombay Stamp Act, 1958.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :-

Short title and commencement.

1. (1) This Act may be called the Bombay Stamp (Gujarat Amendment) Act, 2002.

(2) It shall come into force on the 1st April, 2002.

Amendment of section 3 of Bom. LX of 1958.

2. In the Bombay Stamp Act, 1958 (hereinafter referred to as "the principal Act"), in section 3, after clause (a), the following clause shall be inserted, namely :- **Bom. LX of 1958.**

"(aa) every instrument mentioned in Schedule I, which not having been previously executed by or on behalf of or in favour of, the Government or any local authority, is executed by or on behalf of or in favour of, the Government or any local authority;".

Amendment of section 46 of Bom. LX of 1958.

3. In the principal Act, in section 46, in sub-section (1), for the words "twenty four per cent.", the words "fifteen per cent." shall be substituted.

Amendment of Schedule I to Bom. LX of 1958.

4. In the principal Act, in Schedule I, -

(1) in article 5, after clause (ga), the following clause shall be inserted, namely :-

"(gb) if relating to advertisement on radio, television, cinema, cable network or any media other than newspapers.	Subject to maximum of twenty-five thousand rupees, twenty-five paise for every hundred rupees or part thereof on the amount of consideration of such agreement.";

(2) in article 20, for clause (d), the following shall be substituted, namely :-

"(d) CONVEYANCE, so far as it relates to reconstruction or amalgamation of companies by an order of the High Court under section 394 of the Companies Act, 1956.	Subject to maximum of ten crores rupees - (i) an amount equal to 0.75 per cent. of the aggregate amount comprising of the market value of share issued or allotted in exchange of or otherwise, or the face value of such shares, whichever is higher and the amount of consideration, if any, paid for such amalgamation, or (ii) an amount equal to 0.75 per cent. of the true market value of the immovable property situated in the State of Gujarat of the transferor company, whichever is higher.";

I of 1956.

(3) in article 30, in clause (a), —

(i) in sub-clause (i), for the words, brackets and figures, "The same duty as a Bond (No. 14)", the words "One rupee for every hundred rupees, or part thereof" shall be substituted;

(ii) in sub-clause (ii), for the words, brackets and figures "The same duty as a Bond (No. 14)", the words "Three rupees for every hundred rupees or part thereof" shall be substituted;

(4) after article 30, the following article shall be inserted, namely :-

"30A. LEAVE AND LICENCE AGREEMENT relating to immovable property other than the residential property.	Fifty paise for every hundred rupees or part thereof on the whole amount payable or deliverable plus the total amount of fine or premium or money advanced or to be advanced irrespective of the period for which such leave and licence agreement is executed.".

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STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Bombay Stamp Act, 1958 with a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Gujarat Legislative Assembly on the 27th February, 2002.

Dated the 21st March, 2002.

HAREN PANDYA.

By order and in the name of the Governor of Gujarat,

V.M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 21st March, 2002.

Government Centeal Press, Gandhinagar.

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 21st March, 2002 by Shri Usmangani Devadiwala M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

Gujarat Bill No. 16 of 2002.

THE GUJARAT WELFARE AND PROTECTION OF MINORITIES BILL, 2002.

A BILL

to provide for the welfare and protection of life and properties of minority communities in the State of Gujarat and for matters connected therewith.

It is hereby enacted in the Fifty third Year of the Republic of India as follows :-

Short title, extent and commencement.

1. (1) This Act may be called the Gujarat Welfare and Protection of Minorities, Act, 2002.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

Definitions.

2. (a) In this Act, unless the context otherwise requires.

"Family Member" means and includes a husband, wife, son, daughter, mother, father, brother, sister or any other person with whom the deceased was residing.

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(b) "Minority Community" means a group of persons belonging to a community based on religion other than Hindus.

Special care to protect minority.

3. The State Government shall take special care to protect the life and properties of minority community from any attack or assault thereon and for this purpose the State Government may arrange for special squads of police.

Responsibility for communal disturbance.

4. (1) It shall be the paramount duty of the District Magistrate to maintain communal harmony and to keep a carefull watch and vigilance over the communal atmosphere in his district.

(2) The District Magistrate shall be responsible for any communal disturbance in his District and shall be liable for summary suspension during the Pendency of the investigation about his vigilance.

Offence and Penalties therefore.

5. (1) Any attack or assault on the life or properties of the minority community shall be a cognizable offence under this Act and shall be tried in the Court of the Magistrate not inferior to the Judicial Magistrate of First Class and any person directly or indirectly involved therein shall, on conviction, be punished with imprisonment for the term of not less than seven years.

(2) Any person or institution belonging to the minority community may lodge a complaint for any offence under this Act.

Compensation.

6. The State Government shall pay as a compensation in cash and within three months of the incident, if it is a loss of life Rs. 5 Lacs each, if it is a physical injury Rs. 50,000 each and if it is a loss or damage of properties the actual market value of the properties lost or damaged during the communal disturbance or violence.

Separate Department.

7. There shall be set up a separate and full-fledged Department at the Sachivalaya level at Gandhinagar entrusted for looking after and implementing the ways and means and the schemes of the educational, cultural, social economic and all-round development and welfare of minority communities and the Urdu and other languages of the minority communities.

Power to make Rules.

8. (1) The State Government may, make rules for carrying out the purposes of this Act.

(2) All rules made under this Act, shall be published in the Official Gazette and unless they all are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(3) All rules made under this Act shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the Legislature or to such modifications as the Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

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STATEMENT OF OBJECTS AND REASONS

The lives and properties of persons belonging to the Minority communities deserve to be protected meticulously. Indian is a secular State and hence all communities are equal. In communal disturbances and riots the minority communities have generally to suffer. The District authorities in most of the cases are aware of the communal tension prevailing. They however, do not take prompt preventive measures, which result into heavy loss of lives and properties of the minorities. The summary action is, therefore, proposed against the District Magistrate who is responsible for maintaining law and order situation in the District.

The Government of a secular State should also look into the developmental and welfare activities of minority communities who are living economically, socially and educationally backward life since the Independence.

During the communal disturbances or violence many a persons of minority communities become the victims either in the form of physical injuries or loss or damage of properties and have to live a pitiable life thereafter. It is therefore proposed to provide for payment of compensation in cash and immediately within three months of the incident in which a person of minority communities has to lose life or either suffer physical injuries or loss or damage of properties either in communal disturbances, anti-minority violence or police firing. This provision will help to provide some compensation or relief to the persons affected and it will also discourage the forces behind the communal disturbances or violence in the State. It is also proposed to set up a separate Department at Sachivalaya level for the welfare activities of the minority communities in the State on the line of the Scheduled Castes and Scheduled Tribes in the Government Department of Social Justice and Empowerment Department. The States of U.P. and West Bengal and some other States in India have also set up such Departments.

For the all-round development of Gujarat and for the upliftment and welfare of the people of Gujarat, it is essential to maintain law and order and peace in the State of Mahatma Gandhi, Father of the Nation and great saint and propounder of non-violence.

Hence this Bill.

Dated :- 4/02/2002

Gandhinagar.

USMANGANI DEVADIWALA
M.L.A.

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MEMORANDUM REGARDING DELEGATED LEGISLATION.

Clause 8 of the Bill empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of Legislative powers is essential and is of normal character.

Dated :- 4/02/2002

GANDHINAGAR

USMANGANI DEVADIWALA
M.L.A.

FINANCIAL MEMORANDUM

For the implementation of the provisions of the Bill and for its efficient functioning, a financial provision for a recurring expenditure of Rs. 50 lacs is estimated from the Consolidated Fund of the State.

Date : 4/02/2002
GANDHINAGAR.

USMANGANI DEVADIWALA
M.L.A

Gandhinagar.
Dated the 21st March, 2002.

T. K. Doria,
Secretary,
Gujarat Legislative Assembly.

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The following Bill which was introduced on the 21st March, 2002 by Shri Usmangani Devadiwala M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

Gujarat Bill No. 17 of 2002.

THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2002

A BILL

further to amend the Gujarat Co-operative Societies Act, 1961.

It is hereby enacted in the Fifty Third year of the Republic of India as follows :-

Short title and commencement.

1. (1) This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 2002

(2) It shall come into force at Once.

Amendment of section 2 of Gujarat, X of 1962.

Gujarat X of 1962.

2. In the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the principal Act in section 2, after clause (4), the following clause shall be inserted namely :-

"(4A) "Commission" means the Gujarat Co-operative Service Commission constituted under Section 156 A"

Amendment of Section 76A of Gujarat. X of 1962.

3. In the principal Act, in section 76A, in sub-section (1) and (2) for the words "previous approval of the Registrar" the words "Previous approval of the Commission" shall be substituted.

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Amendment of Section 76B of Gujarat X of 1962.

4. In the principal Act, in section 76B, after sub-section (2), the following sub-section shall be added, namely :-

"(3) No order under sub-section (1) or (2) shall be made except after consultation with the Commission."

Insertion of new section 156A in Gujarat X of 1962.

5. In the principal Act, after section 156, the following section shall be inserted, namely :-

Constitution of Coperative Service Commission.

"156A. (1) There shall be constituted for the purpose of selection of candidates for appointment in co-operative Societies, a Commission to be called the Gujarat Co-operative Service Commission.

(2) The Commission shall consist of a Chairman and not less than two and not more than four other members as the State Government may think fit to appoint.

(3) The Chairman of the Commission shall be the person who has been, or is a judge of the High court or a person who holds or has held a post not below the rank of a Secretary to the State Government.

(4) Members of the Commission shall be persons who, in the opinion of the State Government, have sufficient experience in the field of personnel management and Co-operation.

(5) The qualifications and experience of the members of the Commission shall be such as may be determined by the State Government.

(6) The Chairman and members of the Commission shall hold office for a term of five years from the date of their appointment and on ceasing to hold office after the expiration of their term, they shall be ineligible for reappointment as such Chairman and members.

(7) The Commission shall have a Secretary and such other officers and servants as may be required to enable the Commission to discharge its functions under this Act who may be appointed by the State Government.

(8) The Salary and allowances and other conditions of services of the Chairman and other members of the Commission and of the Secretary and other officers and servants of the Commission shall be such as the State Government may, by order determine.

(9) It shall be the duty of the Commission to select candidates for appointment in such societies as may be specified by the State Government by notification in the Official Gazette.

(10) Every Society, shall consult the Commission :-

(a) On all matters relating to methods of recruitment in society, and

(b) On all disciplinary matters affecting a person serving under the society who is appointed on the recommendation of the Commission.

(11) The procedure to be followed in respect of the selection of candidates and the internal working of the Commission shall be such as may be determined by the State Government."

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STATEMENT OF OBJECTS AND REASONS.

At present each Co-operative Society selects its employees at its own way. In order to make Co-operative movement effective in the State and with a view to avoiding the complaints regarding irregularities and malpractices in the selection of staff of the Co-operative Societies, it is considered necessary to establish a Co-operative Service Commission. Moreover, in the matters regarding disciplinary action, it is also considered necessary to consult the Commission. This Bill seeks, to amend the Gujarat Co-operative Societies Act, 1961 so as to achieve the aforesaid objects.

Date : 4/2/2002.
Gandhinagar

USMANGANI DEVDIWALA
M.L.A.

FINANCIAL MEMORANDUM

Sub-section(8) of new section 156-A proposed to be inserted by clause 5 of the Bill provides for the salary and allowances and other conditions of service of the Chairman, members, officers and servants of the Co-operative Service Commission. This provision if enacted and brought into operation would involve an estimated annual expenditure of about rupees fifteen lakhs from the Consolidated Fund of the State, out of which about rupees ten lakhs would be of a recurring nature and about rupees five lakhs would be of a non recurring nature.

Date 4/02/2002.
Gandhinagar.

USMANGANI DEVADIWALA
M.L.A.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 :-

(1) Sub-section(5) of new Section 156A proposed to be inserted by this clause empowers the State Government to determine the qualifications and experience of the members of the Co-operative Service Commission.

(2) Sub-section (8) of the said new section 156A, empowers the State Government to determine by order the salary and allowances payable to, and other conditions of service of the Chairman, Secretary other officers and servants of the Commission.

(3) Sub-section (9) of the said new Section, 156A, empowers the State Government to specify by notification the societies for which the Commission shall select candidates for appointment in such societies.

(4) Sub-section (11) of the said new Section, 156A, empowers the State Government to determine the procedure to be followed, by the Commission in respect of the selection of candidates and the internal working of the Commission.

The delegation of legislative powers as aforesaid is necessary and is of a normal Character.

Date 4/02/2002.
Gandhinagar.

USMANGANI DEVADIWALA
M.L.A.

ANNEXURE.

Extracts from the Gujarat Co-operative Societies Act, 1961 (Gujarat. X of 1962.).

Appointment or removal of Managing Director or Chief Executive Officer to approved.

"76A (1) No managing Director or Chief Executive Officer of such, society or a society falling within such class of societies as the State Government may by notification in the Official Gazette specify (hereinafter in this section referred to as "the notified society") or person exercising the powers and performing the functions and duties of the Managing Director or Chief Executive Officer of such notified society by whatever designation know, shall be appointed or removed by such notified society except with the previous approval of the Registrar.

(2) Any appointment of removal of a Managing Director or a Chief Executive Officer or a person exercising the powers and performing the functions and duties of such Director or Officer made without the previous approval of the Registrar shall be void.

Removal of Officer.

76B. (1) If, in the opinion of the Registrar, any officer makes persistent default or is negligent in performance of the duties imposed on him by this Act or the rules of the bye-laws or does anything which is prejudicial to the interests of the society or where he stands disqualified by or under this Act, the Registrar may, after giving the officer an opportunity of being heard, by order remove such officer and direct the society to elect or appoint a person or a qualified member in the vacancy caused by such removal and the officer so elected or appointed shall hold office so long only as the officer in whose place he is elected or appointed would have held if the vacancy had not occurred.

(2) The Registrar may, by order, direct that the officer so removed shall be disqualified to hold or to contest election for any office in the society from which he is removed and in any other society for a period not exceeding four years from the date of the order and such office shall stand disqualified accordingly.

Gandhinagar.
Dated the 21st March, 2002.

T. K. Doria,
Secretary,
Gujarat Legislative Assembly.

V-Ex. 17-2

Government Centeal Press, Gandhinagar.

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Extra No. 18 REGISTERED NO. G/GNR/2

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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol XLIII] THURSDAY, MARCH 21, 2002/PHALGUNA 30, 1923

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 21st March, 2002 by Shri Usmangani Devadiwala M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

Gujarat Bill No. 18 of 2002.

THE GUJARAT STATE SPORTSMEN ENCOURAGEMENT BILL, 2002

A BILL

to provide assistance and encouragement to the leading sportsmen of the State and matters connected therewith.

It is hereby enacted in the Fifty-third year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat State Sportsmen Encouragement Act, 2002. **Short title, extent and commencement**

(2) It extends to the whole of the State of Gujarat.

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(3) It shall come into force at once.

Definitions. 2. In this Act, unless the context otherwise requires :-

(a) "Government Servant" means any person appointed to any civil service or post in connection with the affairs of the State of Gujarat and includes also the following –

(i) a Government servant on deputation to other Governments in India.

(ii) Government servant on foreign Service.

(b) "Prominent Sportsman or Promising Sportsman who has secured first, second and third place in any National or International level event of the Sports or Games.

(c) "Promising Sportsman" means a Sportsman who has secured first, second or third place in State level competition of the Sports or games.

(d) "Sportsman" includes Sportswoman.

Free hostel facility. 3. Prominent Sportsman or Promising Sportsman may be provided free Lodging, Boarding and practice facility in the Sports Hostels established by the State Government.

Scholarship. 4. Prominent Sportsman shall be given Scholarship of Rupees five thousand for the year in which he has secured first, second or third place.

Loan Facility. 5. Prominent Sportsman and Promising Sportsman on application made on this behalf may be granted a loan without interest up to rupees ten thousand repayable in maximum fifty monthly installments.

Encouragement amount. 6. Prominent Sportsman or Promising Sportsman who is called for selection trial for any international sportsmeet may be granted a sum of rupees ten thousand as an encouragement amount.

Special assistance award. 7. A Sportsman who has represented or selected for representing India in any international Sportsmeet may be granted a sum of Rupees 25,000/- as a special assistance award.

Free residential Plot. 8. A Prominent Sportsman or Promising Sportsman shall be allotted free residential plot measuring 200 sq.m. at the place where he ordinarily resides.

Encourage-ment to Government Servants.

9. A Government Servant who is participating in the district level, State level or National level Sports competition shall be given

(a) Kit allowance upto Rs. 1000/- and
(b) One month special leave for preparation for competition; and
(c) Travelling allowance and daily allowance for the days of actual participation in the competition.

Leave Facility.

10. A Government Servant who is a Prominent Sportsman or Promising Sportsman may be allowed upto six months special leave in service for preparation for National Level or International Level Sports Competition.

Light Duty.

11. A Prominent Sportsman or Promising Sportsman who is in Government Service may be assigned light duty and he may be transferred at suitable place where he can promote his sports.

Out of turn promotion and seniority in promotion.

12. (1) A Government servant who is a Prominent Sportsman may be granted out of turn promotion to next higher rank once in his service period.

(2) A Government servant who is a promising Sportsman may be given six months seniority in his promotion to next higher rank.

Power to make rules.

13. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may be made to provide for all or any of the following matters, namely :-

(a) The authority by which and the manner in which the free Lodging , Boarding and practice facility is to be provided.
(b) Rules regulating the award to be given to Prominent Sportsman and Promising Sportsman .
(c) Rules regulating grant of loans, encouragement award and special assistance award.
(d) Rules regulating assignment of suitable transfer, light duty and special leave.
(e) Rules regulating the kit allowance, on duty leave, travelling and daily allowance under section 9.
(f) Rules regulating promotion to next higher rank, and seniority in promotion.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

STATEMENT OF OBJECTS AND REASONS.

Many promising and prominent sportsmen of the State of Gujarat are facing difficulties of finance. Such Sportsmen who are representing Gujarat State or India and earning glory for the State and National deserve encouragement as well as assistance from the State. The present facility like nominal scholarship is highly inadequate. No loan or scholarship is available to them. Adequate facility for practice free lodging and boarding facility etc. should be provided to the leading sportsmen. Government should help such sportsmen who earns glory for State and National and thereby put name of the State of Gujarat on the top of the medal tally of the Nation and International level sports meet.

Date : 4/2/2002

Gandhinagar.

USMANGANI DEVADIWALA
M.LA.

FINANCIAL MEMORANDUM

The Bill involves expenditure in the following respects :-

(1) Clause 4 of the Bill provides for granting of scholarship of Rs. 5000/- to prominent sportsman.

(2) Clause 5 of the Bill provides for loan facility to both prominent as well as Promising Sportsman.

(3) Clause 6 of the Bill provides for granting a sum of Rs. 10,000/- as an encouragement amount.

(4) Clause 7 of the Bill provides for granting of a sum of Rs. 25,000/- as a special assistance award.

(5) Clause 9 of the Bill provides for granting of sum of Rs. 1000/- as kit allowance. It also provides for travelling and daily allowance to Government Servant.

These provisions if enacted and brought into operation, would involve an estimated annual expenditure of about Rs. 25,00,000/- from the Consolidate Fund of the State, which would of recurring nature.

Date : 4/2/2002

Gandhinagar.

USMANGANI DEVADIWALA
M.LA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects :-

Clause 13 :- (1) Sub-clause (1) of this clause empowers the State Government to make rules for carrying out the purposes of this Act.

(2) Sub-clause (2) of this clause empowers the State Government to make rules in all or any of the following matters :-

(a) the authority by which and the manner in which the free lodging, boarding and practice facilities to be provided.

(b) Regulating the award to be given to prominent sportsman and promising sportsman;

(c) Regulating grant of loans, encouragement amount and special assistance awards;

(d) Regulating assignment of suitable transfer, light duty and special leave;

(e) Rules regulating the kit allowances, on duty leave travelling and daily allowance under section 9;

(f) Regulating out of turn promotion and giving seniority.

The delegation of legislative powers as aforesaid is necessary and is of normal character.

Date : 4/2/2002

Gandhinagar.

USMANGANI DEVADIWALA
M.L.A.

Gandhinagar
Dated the 21st March, 2002.

T. K. Doria,
Secretary,
Gujarat Legislative Assembly.

Government Centeal Press, Gandhinagar.

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Extra No. 19

REGISTERED NO. G/GNR/2



The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

Gujarat Bill No. 19 of 2002.

THE GUJARAT PREVENTION OF EXTENSION OR RE-EMPLOYMENT OF GOVERNMENT EMPLOYEES AFTER SUPERANNUATION BILL 2002.

A BILL

to provide for the prevention of extension or re-employment of Government employees after attaining the age of superannuation in the State of Gujarat and for matters connected therewith.

It is hereby enacted in the Fifty-Third Year of the Republic of India as follows:-

Short title extent and commence-ment.

1. (1) This Act may be called the Gujarat Prevention of Extension or Re-employment of Government Employees after Superannuation Act, 2002.

(2) It extends to the whole of the State Gujarat.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires-

(i) "Extension or re-employment" means giving extension for a particular period or giving re-employment for a particular period to Government employees, who have retired on attaining the age of superannuation.

(ii) "Government Employee" means and includes any Class-I, Class-II, or Class-III employee of the State Government

(iii) "Government" means the Government of the State of Gujarat.

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Prevention of extension or re-employment after superannuation.

3. No. Government Employee shall be given extension or re-employment after attaining the age of superannuation in any Government or Semi-Government office of in any Board or Corporation constituted or owned by the State Government.

STATEMENT OF OBJECTS AND REASONS

The State Government now-a-days in many cases has started giving extension or re-employment to Government employees on their original posts or in Government Board/Corporations after attaining their superannuation age. This has created unhealthy atmosphere and depressions amongst their next juniors, who are otherwise, eligible for promotion and waiting for their turn. It ma y sometimes happen that such juniors retire without getting promotion, though they are eligible for it. Hence this has badly affected the administration, reflecting the bad picture of the administration in the minds of general public.

This has also created unemployment position as well as unhealthy atmosphere amongst educated younger generation, waiting for job opportunity in the State administration.

The State Government has to bear more financial burden, as the employee getting extension or re-employment are drawing highest pay by this time, hence no benefit on the part of the State Government.

It is, therefore, high time now that steps should be taken through legislation to prevent this practice, as there is no such effective Laws and Rules, which can prevent Government to do so.

Hence, this Bill.

Dated : 14th March, 2002.

Gandhinagar

ARVINDBHAI PATEL,

M.L.A.

Gandhinagar.
Dated the 21st March, 2002.

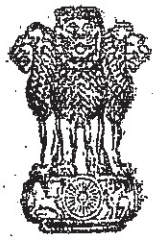
T. K. Doria,
Secretary,
Gujarat Legislative Assembly.

Government Centeal Press, Gandhinagar.

REGISTERED NO. G/GNK/2

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

THE GUJARAT SECONDARY EDUCATION (AMENDMENT) BILL, 2002.

GUJARAT BILL NO. 20 OF 2002.

A BILL

further to amend the Gujarat Secondary Education Act, 1972.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows:-

Short title and commencement.

1. (1) This Act may be called the Gujarat Secondary Education (Amendment) Act, 2002.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of long title of Guj. 18 of 1973.

2. In the Gujarat Secondary Education Act, 1972 (hereinafter referred to as "the principal Act"), in long title, after the word "secondary", the words " and higher secondary" shall be inserted.

Guj. 18 of 1973.

Amendment of section 1 of Guj. 18 of 1973.

3. In the principal Act, in section 1, in sub-section (1), after the word "Secondary", the words "and Higher Secondary" shall be inserted.

1973.

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Amendment of section 2 of Guj. 18 of 1973.

4. In the principal Act, in section 2,-

(1) in clause (b), after the word "Secondary", the words "and Higher Secondary" shall be inserted;

(2) in clause (g),-

(i) after the words "Government secondary school", the words "or a Government higher secondary school" shall be inserted;

(ii) after the words "private secondary school", the words "or private higher secondary school" shall be inserted;

(3) in clause (h), after the words "secondary school", the words "or of a higher secondary school" shall be inserted;

(4) after clause (h), the following clauses shall be inserted, namely:-

"(hh) "higher secondary education" means education including post basic education from eleventh standard to twelfth standard;

(hhh) "higher secondary school" means a school imparting higher secondary education;

(hhhh)"Higher Secondary School Certificate Examination" means an examination of the students in the twelfth standard;";

(5) in clause (l), after the words "secondary education", the words " or higher secondary education" shall be inserted;

(6) after clause (n), the following clause shall be inserted,namely:-

"(nn) "private higher secondary school" means higher secondary school which is not owned, managed or sponsored by the Central or State Government; ";

(7) in clause (r), after the words "Secondary Schools", the words " or the Register of Higher Secondary Schools" shall be inserted;

(8) in clause (s), after the words "a secondary school", the words "or a higher secondary school" shall be inserted;

(9) for clause (u), the following clause shall be substituted, namely:-

"(u) "secondary education" means education including post basic education from eighth standard to tenth standard;";

(10) for clause (w) and the *Explanation* thereunder,the following clause shall be substituted, namely:-

"(w) "Secondary School Certificate Examination" means an examination of the students in the tenth standard;".

Amendment of section 3 of Guj. 18 of 1973.

5. In the principal Act, in section 3,-

(1) in sub-section (1), after the word "Secondary", the words "and Higher Secondary" shall be inserted;

(2) in sub-section (2),-

(a) under the heading "**Class A- Ex- Officio Members.**", for clauses (i) to (x), the following clauses shall be substituted, namely:–

"(i) The Commissioner of Higher Education.

(ii) The Commissioner of Schools and Mid-day meal.

(iii) The Director of Technical Education.

(iv) The Joint Director (10+2).

(v) The Director of Primary Education.

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(vi) The Director, Gujarat State Board of School Text Books.

(vii) The Director, Gujarat State Council of Educational Research and Training.

(viii) The Director of Employment and Training.

(ix) Two officers of Education Department not below the rank of Deputy Secretary as designated by the State Government.

(x) The Chairman, State Board of Examination.

(xi) The Chairman, Technical Education Board.

(xii) The Secretary, Post Basic Education Board.

(xiii) The Director of Examination, Gujarat Secondary and Higher Secondary Education Board.

(xiv) The Director, Gujarat State Institute of Educational Technology.

(xv) The Officer on Special Duty, Gujarat Secondary and Higher Secondary Education Board.";

(b) under the heading "**Class B- Elected Members**",-

(i) after clause (vi-a), the following clause and *Explanation* thereunder shall be inserted, namely :–

"(vi-ab) One member elected by non-teaching staff of registered secondary and higher secondary schools from amongst themselves.

Explanation.—The member elected under clauses (iv-a) and (iv-ab) shall not be eligible to be nominated as the member of the school staff selection committee for teachers and principals.";

(ii) after clause (vi-aa), the following clause shall be inserted, namely :–

"(vi-aaa) One member elected from amongst teachers of Government secondary and higher secondary schools.";

(iii) for clause (vii), the following clause shall be substituted, namely :–

"(vii) four members elected by the representatives of the management of registered Secondary and Higher Secondary Schools registered under the Societies Registration Act, 1860 and the Bombay Public Trusts Act, 1950 from amongst themselves in such manner as may be prescribed.";

XXI of 1860. Bom. XXIX of 1950.

(iv) clause (viii) shall be deleted;

(v) in clause (ix) and in para (1) of the *Explanation* thereunder, after the words "secondary schools", the words "and registered private higher secondary schools" shall be inserted;

(vi) in clause (ix), in the *Explanation,* in para (2), after sub-para (b), the following sub-para shall be added, namely :–

"(c) A member of the Parent's Association shall cease to be such member on completion of his child's Secondary or, as the case may be, higher secondary education.";

(vii) in clause (x),–

(i) in the third proviso, after the word "schools", the words "and registered private higher secondary schools" shall be inserted;

(ii) in the fourth proviso,–

(a) after the words "private secondary schools", the words "registered private higher secondary schools" shall be inserted;

(b) for the words "registered secondary schools", the words "registered schools" shall be substituted.

Amendment of section 8 of Guj. 18 of 1973.

6. In the principal Act,in section 8, in clause (a), in sub-clause (i), for the words "Secondary School Certificate Examination", the words " Secondary School Certificate Examination,the Higher Secondary School Certificate Examination" shall be substituted.

Amendment of section 17 of Guj. 18 of 1973.

7. In the principal Act, in section 17,-

(1) in clause (1), after the words "secondary education" wherever they occur, the words "and higher secondary education" shall be inserted;

(2) in clauses (2), (6), and (8) , after the words "secondary education", the words "and higher secondary education" shall be inserted;

(3) in clause (7), after the words "secondary school", the words "or higher secondary school" shall be inserted;

(4) in clause (16), after the words "secondary schools", the words " and registered private higher secondary schools" shall be inserted;

(5) after clause(16), the following clause shall be inserted, namely:–

"(16A) to direct the school managements and the staff of the registered schools to perform the duties related to examination conducted by the Board.";

(6) after clause(17), the following clause shall be inserted, namely:-

"(17A) to register, in accordance with the prescribed procedure, higher secondary school for teaching such subjects in standards eleventh and twelfth leading to the Higher Secondary School Certificate Examination as it deems fit and to grant permission for opening additional divisions of existing standards in such schools;";

(7) in clause (18), after the words "secondary schools", the words "or higher secondary schools" shall be inserted;

(8) in clause (26), after the words "secondary schools", the words "and registered private higher secondary schools" shall be inserted;

(9) in clauses (27) to (33), for the words "Secondary School Certificate Examination", the words "Secondary School Certificate Examination, the Higher Secondary School Certificate Examination" shall be substituted;

(10) in clause (34), after the words "Secondary School Certificate Examination", the words "and the Higher Secondary School Certificate Examination" shall be added;

(11) in clause (36), for the words "Secondary School Certificate Examination", the words "Secondary School Certificate Examination, the Higher Secondary School Certificate Examination" shall be substituted;

(12) in clause (42), after the words "secondary school", the words " and registered private higher secondary school" shall be inserted.

Amendment of section 18 of Guj. 18 of 1973.

8. In the principal Act, in section 18, in sub-section (1), for the words "Executive Committee", the words "Executive Committee, Education Committee" shall be substituted.

9. In the principal Act, in section 31, - **Amendment of section 31 of Guj. 18 of 1973.**

(1) in sub-section (1), after the words "secondary education", the words "or higher secondary education" shall be inserted;

(2) after sub-section (2), the following sub-section shall be inserted, namely:-

"(2A) As soon as may be after the commencement of the Gujarat Secondary Education (Amendment) Act, 2002, the Board shall prepare and maintain thereafter, a register of Higher Secondary Schools in accordance with the provisions of this Act;"; **Guj. of 2002.**

(3) in sub-section (4),-

(a) after the words "secondary education", the words " or higher secondary education" shall be inserted;

(b) after the words "secondary schools", the words " or, as the case may be, higher secondary schools" shall be inserted;

(4) after sub-section (5), the following sub-section shall be inserted, namely:-

"(5A) Notwithstanding anything contained in sub-section (4), the name of every higher secondary school which immediately before the commencement of the Gujarat Secondary Education (Amendment) Act, 2002, is a recognised school shall be entered in the register and shall be deemed to have been entered in the register from the date of such commencement and shall continue thereon until removed under the provisions of this Act;"; **Guj. of 2002.**

(5) in sub-section (7), after the words "secondary schools", the words "and higher secondary schools" shall be inserted;

(6) in the marginal note, after the words "secondary education", the words "and higher secondary education" shall be inserted.

10. In the principal Act, in section 33, in sub-section (1), after the words "registered private secondary school", the words " or registered private higher secondary school" shall be inserted. **Amendment of section 33 of Guj. 18 of 1973.**

11. In the principal Act, in section 34,- **Amendment of section 34 of Guj. 18 of 1973.**

(1) in sub-section (1), after the words "registered private secondary school", the words " and a registered private higher secondary school" shall be inserted;

(2) in sub-section (2),-

(a) after the words "registered private secondary schools", the words "and registered private higher secondary schools" shall be inserted;

(b) in the second proviso, after the words "any registered private secondary school", the words " or registered private higher secondary school" shall be inserted;

(3) in the marginal note, after the words "registered private secondary schools", the words "or registered private higher secondary schools" shall be inserted.

12. In the principal Act, in section 35,-

(1) in sub-section (1), after the words "registered private secondary school", the words "and every registered private higher secondary school" shall be inserted; **Amendment of section 35 of Guj. 18 of 1973.**

(2) in the marginal note, after the words "registered private secondary schools", the words " and registered private higher secondary schools" shall be inserted.

Amendment of section 41 of Guj. 18 of 1973.

13. In the principal Act, in section 41, in sub-section (1), after the words "registered private secondary school", the words " or registered private higher secondary school" shall be inserted.

Amendment of section 44 of Guj. 18 of 1973.

14. In the principal Act, in section 44, in sub-section (1), after the words "registered private secondary school", the words "or registered private higher secondary school" shall be inserted.

Amendment of section 53 of Guj. 18 of 1973.

15. In the principal Act, in section 53, in sub-section (2), in clause (f), for the words "Secondary School Certificate Examination", the words "Secondary School Certificate Examination, Higher Secondary School Certificate Examination" shall be substituted.

Construction of references to Gujarat Secondary Education Board in laws, etc.

16. (1) Any reference to the Gujarat Secondary Education Board in any law for the time being in force or in any instrument or other document shall be construed as a reference to the Gujarat Secondary and Higher Secondary Education Board.

(2) Any act done by or any suit or other proceeding filed by or against the Gujarat Secondary Education Board before the commencement of this Act shall be deemed to have been done or, as the case may be, filed by or against the Gujarat Secondary and Higher Secondary Education Board.

Transitory provision.

17. The Gujarat Secondary Education Board functioning immediately before the commencement of this Act shall, notwithstanding that its constitution has been rendered inconsistent with the provisions of the principal Act as amended by this Act continue after such commencements subject to other provisions of the principal Act as amended by this Act.

Amendment of certain provisions of Acts relating to certain Universities in the State.

18. Each of the Acts specified in the second column of the Schedule shall be amended in the manner and to the extent, specified against it in the third column thereof.

SCHEDULE

(See section 18)

Sr. No.	Short title	Extent of Amendment
1	2	3
1.	The Maharaja Sayajirao University of Baroda Act, 1949. (Baroda Act XVII of 1949)	In section 44, in clause (i),- (a) the words "in the eleventh standard" shall be deleted; (b) for the words "conducted by the Secondary School Certificate Examination Board", the words "conducted by the Gujarat Secondary and Higher Secondary Education Board" shall be substituted.
2.	The Gujarat University Act, 1949. (Bom. L of 1949)	In section 42, in clause (i),- (a) the words "in the eleventh standard" shall be deleted; (b) for the words "conducted by the Secondary School Certificate Examination Board", the words "conducted by the Gujarat Secondary and Higher Secondary Education Board" shall be substituted.
3.	The Sardar Patel University Act, 1955. (Bom. XL of 1955)	(1) In section 15, under the heading "I. Ex-Officio fellows", in paragraph (B), for clause (xiii), the following clause shall be substituted, namely:- "(xiii) The Chairman of the Gujarat Secondary and Higher Secondary Education Board". (2) In section 33, in clause (i),- (a) the words "in the eleventh standard" shall be deleted; (b) for the words "conducted by the Secondary School Certificate Examination Board", the words "conducted by the Gujarat Secondary and Higher Secondary Education Board" shall be substituted.
4.	The South Gujarat University Act, 1965. (Guj. 38 of 1965)	(1) In section 16,in sub-section (1), under the heading "Class I-Ex-Officio Members", in paragraph (B), for clause (vi), the following clause shall be substituted, namely:- "(vi) The Chairman of the Gujarat Secondary and Higher Secondary Education Board". (2) In section 43, in clause (i),- (a) the words "in the eleventh standard" shall be deleted;

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		(b) for the words "conducted by the Secondary School Certificate Examination Board", the words "conducted by the Gujarat Secondary and Higher Secondary Education Board" shall be substituted.
5.	The Saurashtra University Act, 1965. (Guj. 39 of 1965)	(1) In section 16, in sub-section (1), under the heading "Class I-Ex-Officio Members", in paragraph (B), for clause (vi), the following clause shall be substituted, namely:- "(vi) The Chairman of the Gujarat Secondary and Higher Secondary Education Board". (2) In section 43, in clause (i),- (a) the words "in the eleventh standard" shall be deleted; (b) for the words "conducted by the Secondary School Certificate Examination Board", the words "conducted by the Gujarat Secondary and Higher Secondary Education Board" shall be substituted.
6.	The Bhavnagar University Act, 1978. (Guj. 26 of 1978)	(1) In section 15, in sub-section (1), under the heading "Class-I EX-OFFICIO MEMBERS", in paragraph (B), for clause (iv), the following clause shall be substituted, namely:- "(iv) The Chairman of the Gujarat Secondary and Higher Secondary Education Board". (2) In section 44, in clause (i),- (a) the words "in the eleventh standard" shall be deleted; (b) for the words "conducted by the Gujarat Secondary Education Board", the words "conducted by the Gujarat Secondary and Higher Secondary Education Board" shall be substituted.
7.	The North Gujarat University Act,1986. (Guj. 22 of 1986)	(1) In section 16, in sub-section (1), under the heading "Class-I Ex-Officio Members", in paragraph (B), for clause (iv), the following shall be substituted, namely:- "(iv) The Chairman of the Gujarat Secondary and Higher Secondary Education Board.". (2) In section 50,in clause (i),- (a) the words "in the eleventh standard" shall be deleted; (b) for the words "conducted by the Gujarat Secondary Education Board", the words "conducted by the Gujarat Secondary and Higher Secondary Education Board" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

After the introduction of new pattern of secondary education (10 + 2), the education imparted in standards VIII to X is treated as 'secondary education' and the education imparted in standards XI and XII is treated as 'higher secondary education'. The secondary education in the State is regulated by the Gujarat Secondary Education Board established under the Gujarat Secondary Education Act, 1972. It is considered necessary to entrust the regulation of the Higher Secondary Education to the said Gujarat Secondary Education Board.

This Bill seeks to amend the Gujarat Secondary Education Act, 1972 to achieve the aforesaid object.

ANANDIBEN PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative power in the following respect :-

Clause 1.—Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which this Act shall come into force.

Clause 5.—Clause (vii) under the heading "Class B-Elected Members" in sub-section (2) of section 3 proposed to be inserted by item (iii) of para (b) of sub-clause (2) of this clause empowers the State Government to prescribe by rules, the manner in which the State Government shall appoint four members, amongst the members elected by the representatives of the management of registered Secondary and Higher Secondary Schools registered under the Societies Registration Act, 1860 and the Bombay Public Trusts Act, 1950.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 22nd March, 2002. **ANANDIBEN PATEL.**

By order and in the name of the Governor of Gujarat,

V. M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary affairs Department.

Gandhinagar,
Dated the 27th March, 2002.

Government Centeal Press, Gandhinagar.

V-Ex.-203.

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Extra No. 21 REGISTERED NO. G/GNR/2

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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLIII] WEDNESDAY MARCH 27, 2002/CAITRA 6, 1924

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT APPROPRIATION BILL, 2002.

GUJARAT BILL NO. 21 OF 2002.

A BILL

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2003.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :-

Short title.

1. This Act may be called the Gujarat Appropriation Act, 2002.

Withdrawal of Rs.3,04,43,48,99,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 2002-2003.

2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of thirty thousand, four hundred forty-three crores, forty-eight lakhs, ninety-nine thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2002-2003 in repect of the services and purposes specified in column 2 of the Schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

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SCHEDULE

(*See* sections 2 and 3)

No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged* on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
1	Agriculture and Co-operation Department	Revenue	4,66,14,000	—	4,66,14,000
2	Agriculture	Revenue	4,69,94,23,000	—	4,69,94,23,000
		Capital	55,01,000	—	55,01,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	29,13,01,000	—	29,13,01,000
		Capital	10,000	—	10,000
4	Animal Husbandry and Dairy Development	Revenue	64,27,46,000	—	64,27,46,000
5	Co-operation	Revenue	35,73,39,000	—	35,73,39,000
		Capital	12,99,63,000	—	12,99,63,000
6	Other expenditure pertaining to Agriculture and Co-operation Department	Capital	2,98,25,000	—	2,98,25,000
7	Education Department	Revenue	2,91,85,000	—	2,91,85,000
8	Education	Revenue	38,23,87,67,000	1,67,20,50,000	39,91,08,17,000
9	Other expenditure pertaining to Education Department	Revenue	4,90,86,000	—	4,90,86,000
		Capital	99,24,45,000	—	99,24,45,000
10	Energy and Petro-Chemicals Department	Revenue	1,81,57,000	—	1,81,57,000
11	Tax Collection Charges (Energy and Petro-Chemicals Department)	Revenue	6,33,82,000	—	6,33,82,000
12	Energy Projects	Revenue	21,49,31,50,000	2,25,00,000	21,51,56,50,000
		Capital	3,33,35,50,000	—	3,33,35,50,000
13	Other expenditure pertaining to Energy and Petro-Chemicals Department	Revenue	15,00,000	—	15,00,000
		Capital	11,01,56,000	—	11,01,56,000

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No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged* on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
14	Finance Department	Revenue	6,34,40,000	—	6,34,40,000
		Capital	9,00,000	—	9,00,000
15	Tax Collection Charges (Finance Department)	Revenue	66,05,89,000	—	66,05,89,000
16	Treasury and Accounts Administration	Revenue	40,63,90,000	—	40,63,90,000
17	Pensions and other Retirement Benefits	Revenue	12,05,71,00,000	10,00,000	12,05,81,00,000
18	Other expenditure pertaining to Finance Department	Revenue	3,00,16,38,000	—	3,00,16,38,000
		Capital	3,01,80,000	1,00,000	3,02,80,000
19	Repayment of debt pertaining to Finance Department and its servicing	Revenue		45,22,98,74,000	45,22,98,74,000
		Capital		14,82,99,09,000	14,82,99,09,000
20	Food, Civil Supplies and Consumer Affairs Department	Revenue	6,70,60,000	—	6,70,60,000
21	Civil Supplies	Revenue	1,26,09,10,000	—	1,26,09,10,000
22	Food	Revenue	12,12,90,000	—	12,12,90,000
		Capital	10,00,000	—	10,00,000
23	Other expenditure pertaining to Food, Civil Supplies and Consumer Affairs Department	Capital	39,10,000	—	39,10,000
24	Forest and Environment Department	Revenue	1,86,25,000	—	1,86,25,000
25	Forests	Revenue	1,16,01,50,000	—	1,16,01,50,000
		Capital	1,02,12,08,000	—	1,02,12,08,000
26	Environment	Revenue	5,84,00,000	—	5,84,00,000
27	Other expenditure pertaining to Forest and Environment Department	Capital	1,84,60,000	—	1,84,60,000

No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged* on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
28	Governor	Revenue	—	2,31,16,000	2,31,16,000
29	Council of Ministers	Revenue	3,96,50,000	—	3,96,50,000
30	Elections	Revenue	71,83,24,000	—	71,83,24,000
31	Public Service Commission	Revenue	97,60,000	2,79,90,000	3,77,50,000
32	General Administration Department	Revenue	84,01,14,000	—	84,01,14,000
33	Economic Advice and Statistics	Revenue	7,54,35,000	—	7,54,35,000
34	Other expenditure pertaining to General Administration Department	Revenue	18,94,49,96,000	5,92,000	18,94,55,88,000
		Capital	13,25,12,80,000	—	13,25,12,80,000
35	State Legislature	Revenue	8,94,48,000	10,34,000	9,04,82,000
36	Loans and Advances to Government Servants in Gujarat Legislature Secretariat	Capital	11,70,000	—	11,70,000
37	Health and Family Welfare Department	Revenue	3,82,75,000	—	3,82,75,000
38	Medical and Public Health	Revenue	7,02,92,79,000	—	7,02,92,79,000
39	Family Welfare	Revenue	1,44,91,72,000	—	1,44,91,72,000
40	Other expenditure pertaining to Health and Family Welfare Department	Revenue	13,50,000	—	13,50,000
		Capital	4,36,70,000	—	4,36,70,000
41	Home Department	Revenue	4,74,75,000	—	4,74,75,000
42	Police	Revenue	7,37,28,09,000	—	7,37,28,09,000
43	Jails	Revenue	23,86,39,000	—	23,86,39,000
44	Transport	Revenue	1,83,21,85,000	—	1,83,21,85,000
		Capital	20,11,00,000	—	20,11,00,000
45	State Excise	Revenue	4,89,55,000	—	4,89,55,000

No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding Voted	*Charged* on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
46	Other expenditure pertaining to Home Department	Revenue	58,85,61,000	3,00,000	58,88,61,000
		Capital	1,32,73,06,000	—	1,32,73,06,000
47	Industries and Mines Department	Revenue	4,53,60,000	—	4,53,60,000
48	Stationery and Printing	Revenue	40,06,44,000	—	40,06,44,000
49	Industries	Revenue	4,81,41,71,000	—	4,81,41,71,000
		Capital	46,50,50,000	—	46,50,50,000
50	Mines and Minerals	Revenue	23,01,34,000	—	23,01,34,000
51	Tourism	Revenue	22,91,67,000	—	22,91,67,000
		Capital	10,00,000	—	10,00,000
52	Other expenditure pertaining to Industries and Mines Department	Revenue	6,26,17,000	—	6,26,17,000
		Capital	7,02,75,000	—	7,02,75,000
53	Information and Broadcasting Department	Revenue	71,50,000	—	71,50,000
54	Information and Publicity	Revenue	25,74,00,000	—	25,74,00,000
55	Other expenditure pertaining to Information and Broadcasting Department	Revenue	2,52,50,000	—	2,52,50,000
		Capital	50,40,000	—	50,40,000
56	Labour and Employment Department	Revenue	2,41,00,000	—	2,41,00,000
57	Labour and Employment	Revenue	1,64,86,64,000	—	1,64,86,64,000
58	Other expenditure pertaining to Labour and Employment Department	Capital	2,10,85,000	—	2,10,85,000
59	Legal Department	Revenue	2,15,55,000	—	2,15,55,000
60	Administration of Justice	Revenue	1,05,54,30,000	12,99,85,000	1,18,54,15,000
61	Other expenditure pertaining to Legal Department	Revenue	4,87,65,000	—	4,87,65,000
		Capital	2,03,20,000	—	2,03,20,000
62	Legislative and Parliamentary Affairs Department	Revenue	1,96,80,000	—	1,96,80,000

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No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged* on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
63	Other expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital	6,60,000	—	6,60,000
64	Narmada, Water Resources and Water Supply Department	Revenue	5,23,20,000	—	5,23,20,000
65	Narmada Development Scheme	Capital	7,20,25,74,000	—	7,20,25,74,000
66	Irrigation and Soil Conservation	Revenue	19,34,25,47,000	—	19,34,25,47,000
		Capital	2,72,92,90,000	—	2,72,92,90,000
67	Water Supply	Revenue	1,46,62,00,000	—	1,46,62,00,000
		Capital	4,50,11,00,000	—	4,50,11,00,000
68	Other expenditure pertaining to Narmada, Water Resources and Water Supply Department	Revenue	25,000	—	25,000
		Capital	5,89,40,000	—	5,89,40,000
69	Panchayats, Rural Housing and Rural Development Department	Revenue	2,73,40,000	—	2,73,40,000
70	Community Development	Revenue	2,58,51,24,000	—	2,58,51,24,000
71	Rural Housing and Rural Development	Revenue	3,77,62,07,000	1,51,32,80,000	5,28,94,87,000
		Capital	22,50,000	—	22,50,000
72	Compensation and Assignments	Revenue	76,46,16,000	—	76,46,16,000
73	Other expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	62,19,30,000	—	62,19,30,000
		Capital	21,99,50,000	—	21,99,50,000
74	Fisheries	Revenue	14,68,65,000	—	14,68,65,000
		Capital	4,51,01,000	—	4,51,01,000
75	Other Expenditure pertaining to Ports and Fisheries Department	Revenue	83,50,000	—	83,50,000
		Capital	68,02,000	—	68,02,000
76	Revenue Department	Revenue	7,28,85,000	—	7,28,85,000
77	Tax Collection Charges (Revenue Department)	Revenue	54,56,60,000	—	54,56,60,000

No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged* on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
78	District Administration	Revenue	68,70,50,000	—	68,70,50,000
79	Relief on account of Natural Calamities	Revenue	4,04,13,00,000	—	4,04,13,00,000
80	Dangs District	Revenue	18,93,75,000	—	18,93,75,000
81	Compensation and Assignments	Revenue	23,62,15,000	12,50,000	23,74,65,000
		Capital	2,00,000	3,00,000	5,00,000
82	Other expenditure pertaining to Revenue Department	Revenue	38,60,000	—	38,60,000
		Capital	7,40,30,000	—	7,40,30,000
83	Roads and Buildings Department	Revenue	5,34,00,000	—	5,34,00,000
84	Non-Residential Buildings	Revenue	2,23,05,69,000	10,00,000	2,23,15,69,000
		Capital	84,90,87,000	—	84,90,87,000
85	Residential Buildings	Revenue	73,70,88,000	—	73,70,88,000
		Capital	19,14,12,000	—	19,14,12,000
86	Roads and Bridges	Revenue	4,62,05,37,000	—	4,62,05,37,000
		Capital	5,51,64,13,000	—	5,51,64,13,000
87	Gujarat Capital Construction Scheme	Revenue	8,01,95,000	—	8,01,95,000
		Capital	17,23,00,000	—	17,23,00,000
88	Other expenditure pertaining to Roads and Buildings Department	Revenue	10,99,03,000	—	10,99,03,000
		Capital	3,60,85,000	—	3,60,85,000
89	Social Justice and Empowerment Department	Revenue	2,31,85,000	—	2,31,85,000
90	Social Security and Welfare	Revenue	1,92,70,03,000	55,00,000	1,93,25,03,000
		Capital	1,37,31,000	—	1,37,31,000
91	Welfare of Scheduled Tribes	Revenue	62,74,07,000	—	62,74,07,000
		Capital	1,05,00,000	—	1,05,00,000
92	Other expenditure pertaining to Social Justice and Empowerment Department	Capital	1,74,25,000	—	1,74,25,000
93	Special Component Plan for Scheduled Castes	Revenue	2,86,45,03,000	—	2,86,45,03,000
		Capital	14,27,10,000	—	14,27,10,000

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No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding Voted	*Charged* on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
94	Tribal Area Sub-Plan	Revenue	8,84,07,80,000	—	8,84,07,80,000
		Capital	1,20,66,32,000	—	1,20,66,32,000
95	Sports, Youth and Cultural Activities Department	Revenue	97,73,000	—	97,73,000
96	Youth Services and Cultural Activities	Revenue	26,56,67,000	—	26,56,67,000
97	Other expenditure pertaining to Sports, Youth and Cultural Activities Department	Capital	37,35,000	—	37,35,000
98	Urban Development and Urban Housing Department	Revenue	1,64,80,000	—	1,64,80,000
99	Urban Housing	Revenue	11,04,35,000	57,42,75,000	68,47,10,000
100	Urban Development	Revenue	3,61,03,02,000	—	3,61,03,02,000
		Capital	2,33,00,000	—	2,33,00,000
101	Compensation, Assignments and Tax Collection Charges	Revenue	74,36,00,000	24,00,03,000	98,36,03,000
102	Other expenditure pertaining to Urban Development and Urban Housing Department	Revenue	1,19,40,000	—	1,19,40,000
		Capital	60,38,000	—	60,38,000
103	Women and Child Development Department	Revenue	65,30,000	—	65,30,000
104	Other expenditure pertaining to Women and Child Development Department	Revenue	1,52,42,60,000	30,00,000	1,52,72,60,000
		Capital	9,90,000	—	9,90,000
	Total :	**Revenue**	**1,96,04,21,82,000**	**49,44,67,49,000**	**2,45,48,89,31,000**
		Capital	**44,11,56,59,000**	**14,83,03,09,000**	**58,94,59,68,000**
	Grand Total :		**2,40,15,78,41,000**	**64,27,70,58,000**	**3,04,43,48,99,000**

STATEMENT OF OBJECTS AND REASONS

Article 204(1) of the Constitution of India requires that as soon as may be after the grants have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State, of all moneys required to meet-

(a) the grants so made by the Assembly, and

(b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the Statement previously laid before the Legislative Assembly.

The Bill accordingly specifies the gross amount required to meet grants made by the Assembly and the expenditure charged on the Consolidated Fund of the State for the financial year ending on the 31st March, 2003.

The amounts are shown below :–		Rs.
(a)	Revenue Expenditure	2,45,48,89,31,000
(b)	Capital Expenditure	58,94,59,68,000
	Total :	3,04,43,48,99,000

Dated the 27th March, 2002. **NITIN PATEL.**

By order and in the name of the Governor of Gujarat,

V. M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary affairs Department.

Gandhinagar,
Dated the 27th March, 2002.

Government Central Press, Gandhinagar.

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Extra No. 22 REGISTERED NO. G/GNR/2



The Gujarat Government Gazette

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT SALES TAX (AMENDMENT AND VALIDATION) BILL, 2002.

GUJARAT BILL NO. 22 OF 2002.

A BILL

further to amend the Gujarat Sales Tax Act, 1969 and to validate the levy and collection of tax in respect of a specified works contract under the said Act.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Gujarat Sales Tax (Amendment and Validation) Act, 2002.

Amendment of section 57A of Guj. 1 of 1970.

Guj. 1 of 1970.

2. In the Gujarat Sales Tax Act, 1969 (hereinafter referred to as "the principal Act"), in section 57A, —

(i) for clause (c), the following clause shall be and shall be deemed always to have been substituted with effect from the 1st April, 1997, namely :—

"(c) "specified sale price" in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of

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a works contract, means such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for execution of such works contract, the amount representing labour charges for such execution and the price paid or payable for the goods purchased in the course of inter-State trade or commerce or in the course of import into the territory of India for the use in execution of such works contract; and";

(ii) in clause (d), for the words "ten lakh rupees", the words " one crore rupees " shall be and shall be deemed always to have been substituted with effect from the 1st day of April, 2002.

Substitution of section 57B of Guj. 1 of 1970.

3. In the principal Act, for section 57B, the following section shall be and shall be deemed always to have been substituted with effect from the 1st April, 1997, namely : —

Deduction at source in certain cases.

"57B. (1) Notwithstanding that the assessment in respect of the specified sales is to be made for a year or part of a year, the tax on such sales shall be payable at source in accordance with the provisions of this section.

(2) Nothing in sub-section (1) shall prejudice the levy of tax on the specified sales under sections 7 and 8.

(3) *(a)* Any person responsible for paying specified sale price to a contractor for carrying out any work in pursuance of a specified works contract, shall at the time of payment of the whole or part of the specified sale price, deduct from such price an amount equal to two paise in a rupee of such payment as a tax on specified sales.

(b) Any person being a contractor responsible for paying specified sale price to a sub-contractor in pursuance of a contract with the sub-contractor for carrying out the whole or part of the work undertaken by the contractor in respect of a specified works contract, shall at the time of payment of the whole or part of the specified sale price deduct from such price an amount equal to two paise in a rupee of such payment as a tax on specified sales.

(c) The contractor, or as the case may be, sub-contractor shall furnish the prescribed Statement to the person or, as the case may be, contractor responsible for paying specified sale price and thereupon such person or contractor shall deduct the amount referred to in clause *(a)* or *(b)* on the basis of such Statement.

(4) If a person has entered into works contract with a contractor and the contractor has entered into a contract with a sub-contractor entrusting to the sub-contractor for carrying out of the whole or part of the work (hereinafter referred to as "the sub-contract") relating to the said works contract and the contractor has at the time of payment of the specified sale price in respect of the said sub-contract to the sub-contractor deducted an amount as a tax under clause *(b)* of sub-section (3) and has paid the same under sub-section (7), then notwithstanding anything contained in clause *(a)* of the said sub-section (3), the person shall not at the time of payment of the specified sale price to the contractor deduct an amount under clause *(a)* of sub-section *(3)* equal to the amount of tax paid by the contractor under sub-section (7).

(5) *(a)* Where the contractor or sub-contractor is not liable to pay tax under this Act on specified sales involved in any specified works contract, he shall make an application to the Commissioner in this behalf.

(b) On receipt of the application under clause *(a)*, if the Commissioner is satisfied that the contractor or sub-contractor is not liable to pay tax under this Act on specified sales involved in the specified works contract, he shall give a certificate to that effect in such form as may be prescribed.

(c) Where any such certificate is given under clause *(b)*, the person responsible for paying any specified sale price under clause *(a)* or clause *(b)* of sub-section (3), shall not deduct any amount as a tax in respect of the specified works contract mentioned in the certificate.

(6) Any amount deducted as a tax in accordance with the provisions of sub-section (3), shall be deemed to be an amount received by the contractor or the sub-contractor as part of the specified sale price in pursuance of the specified works contract.

(7) Any person deducting the amount as a tax in accordance with the provisions of sub-section (3) shall -

(a) pay such amount into Government treasury in such manner and within such period as may be prescribed,

(b) obtain treasury receipt therefor, and

(c) furnish a copy of such receipt to the contractor or, as the case may be, the sub-contractor within thirty days from the date on which he obtains the receipt.

(8) Every person deducting the amount as a tax in accordance with the provisions of sub-section (3) shall, at the time of payment of the whole or part of the specified sale price, furnish to the contractor or, as the case may be, the sub-contractor a certificate specifying the amount so deducted and such other particulars as may be prescribed.

(9) Any deduction made in accordance with the provisions of sub-section (3) and paid into the Government treasury under sub-section (7) shall be treated as a payment of tax or, as the case may be, *lump sum* by way of composition under section 55A, on behalf of the contractor or, as the case may be, the sub-contractor, and, on the production of a certificate furnished to him under sub-section (8), alongwith a copy of a treasury receipt given to him under sub-section (7), credit shall be given to him for the amount so deducted in the assessment of tax, if any, made under this Act for the relevant year or, as the case may be, in the payment of the *lump sum*.

(10) Where an amount as a tax on specified sales has not been deducted in accordance with the provisions of this section, the tax on specified sales shall be payable by the contractor or, as the case may be, the sub-contractor directly.

(11) Where any amount deducted under sub-section (3) remains unpaid after expiry of the time specified in sub-section (7), such amount shall be recoverable as an arrear of land revenue and the Sales Tax authorities shall, for the purpose of effecting recovery of the amount, exercise the powers conferred on them under section 47A.

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(12) *(a)* If any person does not deduct an amount under sub-section (3) or after deducting the amount under that sub-section, fails to pay the same into the Government treasury under sub-section (7) within the time specified therein, he shall be liable to pay such penalty not exceeding twenty-five per cent. of the amount required to be deducted by him under sub-section (3) as may be imposed by the Commissioner.

(b) The Commissioner shall, for the purpose of imposing penalty under clause (a), exercise the same powers as are conferred on him under sub-sections (3) and (4) of section 46 in relation to imposing of penalty under that section.

(13) Where a person deducting the amount of tax in accordance with the provisions of sub-section (3) does not pay the amount so deducted into the Government treasury under sub-section (7) within the time specified therein, there shall be paid by such person, in addition to the penalty imposed on him under sub-section (12), for the period commencing on the date of expiry of the time specified in sub-section (7) and ending on the date of payment of the amount into the Government treasury, simple interest at the rate of twenty-four per cent. during the period from 1st April, 1997 to 31st August, 2001 and thereafter at the rate of eighteen per cent. of the amount not so paid or any less amount remaining unpaid during that period.".

Insertion of new section 57D in Guj. I of 1970.

No deduction at source.

4. In the principal Act, after section 57C, the following section shall be added, namely :-

"57D. Notwithstanding anything contained in section 57B, with effect from the 1st April, 2002 tax shall not be deducted at source where payment is to be made by the State Government in case of the specified works contract of the State Government, at the time of payment of the whole or part of the specified sale price.".

Validation of levy and collection of tax on specified works contract.

5. (1) Notwithstanding anything contained in any judgement, decree or order of any court, tribunal or authority, the tax deducted, levied, assessed, reassessed or collected or purported to have been deducted, levied, assessed, reassessed or collected under the principal Act on specified sales in pursuance of a specified works contract under section 57B shall be and shall be deemed always to have been validly deducted, levied, assessed, reassessed or collected in accordance with law as if the provisions of the principal Act as amended by this Act had been in force at all material times when such tax was deducted, levied, assessed, reassessed or collected and accordingly-

(a) no suit, appeal, application or other proceedings shall be maintained or continued in any court or before any tribunal or authority whatsoever for the refund of the said tax,

(b) no court, tribunal or other authority shall enforce any decree or order directing refund of the said tax, and

(c) recoveries shall be made in accordance with the provisions of the principal Act as amended by this Act as if said provisions had been in force at all material times.

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(2) For the removal of doubt, it is hereby declared that,-

(*a*) nothing in sub-section (1) shall be construed as preventing any person –

(i) from questioning, in accordance with the provisions of the principal Act as amended by this Act, the deduction, levy, assessment, re-assessment or collection of the aforesaid tax, or

(ii) from claiming, in accordance with the provisions of the principal Act as amended by this Act, refund of the aforesaid tax paid by him in excess of the amount due from him.

(b) no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this Act had not come into force.

V-Ex, 22-2

STATEMENT OF OBJECTS AND REASONS

The Gujarat Sales Tax Act,1969 was amended with effect from 1st April, 1997 to provide for deduction at source in respect of tax on sales of goods involved in execution of works contracts. Accordingly, any person responsible for paying price to a contractor in relation to transfer of property in goods involved in execution of works contract was required to deduct as a tax from such price, an amount equal to two per cent. of such payment.

In the Special Civil Application No. 13344 of 2000 (*M/s Larsen and Tubro Ltd. V/s the State of Gujarat*), the Gujarat High Court by its judgement dated 18th July, 2001 has struck down the provisions contained in section 57B of the Gujarat Sales Tax Act, 1969 holding it to be beyond the legislative competence of the State Legislature on the ground that State cannot impose tax on inter-State transaction.

With a view to remove the infirmities pointed out in the aforesaid judgement and to explicit the intent of State Government, it is proposed to substitute with retrospective effect, section 57B and the definition of 'specified sale price' in clause (c) of section 57A so as to provide that the labour charges and the price payable for the goods purchased in the course of inter-State trade or commerce or in the course of import into the territory of India, for the use in the execution of works contract shall be deducted while computing the specified sale price for the purpose of deduction of the amount as a tax and to validate the levy and collection of tax.

An opportunity has been taken to amend clause (d) of section 57A of the said Act with effect from the 1st April, 2002 so as to apply it to the works contract wherein the specified sale price exceeds one crore rupees. It is proposed to insert new section 57D, with a view to provide that no tax shall be deducted at source in the case of the specified works contract of the State Government where the payment is to be made by the State Government.

This Bill seeks to amend the Gujarat Sales Tax Act, 1969 to achieve the aforesaid object.

NITIN PATEL

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MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :-

Clause 3.– This clause substitutes section 57B of the Act.

(i) clause (c) of sub-section (3) of section 57B empowers the State Government to prescribe by rules, the Statement to be furnished by the contractor or sub-contractor to the person responsible for paying specified sale price;

(ii) clause (b) of sub-section (5) empowers the State Government to prescribe by rules, the form in which the certificate is to be given by the Commissioner for non-liability of tax of the contractor;

(iii) clause (a) of sub-section (7) empowers the State Government to prescribe by rules, the manner in which and the period within which the amount of tax deducted by a person shall be paid into a Government treasury;

(iv) sub-section (8) empowers the State Government to prescribe by rules, the certificate and other particulars to be furnished by the person deducting the amount of tax.

The delegation of legislative powers as aforesaid is necessary and of a normal character.

Dated the 28th March, 2002. **NITIN PATEL.**

By order and in the name of the Governor of Gujarat,

V.M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 28th March, 2002.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR

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The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT NEW CAPITAL (PERIPHERY) CONTROL (REPEAL) BILL, 2002.

GUJARAT BILL NO. 23 OF 2002.

A BILL

to repeal the Gujarat New Capital (Periphery) Control Act, 1960.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Gujarat New Capital (Periphery) Control (Repeal) Act, 2002.

Guj. X of 1960.

Repeal of Guj. X of 1960.

2. The Gujarat New Capital (Periphery) Control Act, 1960 is hereby repealed.

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STATEMENT OF OBJECTS AND REASONS

The Gujarat New Capital (Periphery) Control Act, 1960 was enacted for controlling and regulating development in the periphery of the site of the permanent capital of the State of Gujarat. It also extends to the area adjacent to and within a distance of five miles on all sides from the outer boundary of the new capital of the State. The said Act provides for obtaining previous permission of the Collector for erecting any building or to make or extend any excavation or lay out any means of access to a road in the controlled area. It also provides for obtaining the permission of the State Government for the change of use of land. Thereafter, the Gujarat Town Planning and Urban Development Act, 1976 was enacted for execution of development plans and town planning schemes in the State. In the year 1996, the Gandhinagar Urban Development Authority has been constituted under section 22 of the Act of 1976. Since the Gandhinagar Urban Development Authority is looking after the development in the areas covered under the Act of 1960, it is not necessary now to have two authorities for the same purpose in the areas of the capital and adjacent areas thereto. With a view to remove the hardship of the people in approaching two different authorities for the same purpose, it is considered necessary to repeal the Gujarat New Capital (Periphery) Control Act, 1960.

This Bill seeks to repeal the Act of 1960 to achieve the aforesaid object.

Dated the 1st April, 2002. **INDRAVIJAYSINH JADEJA.**

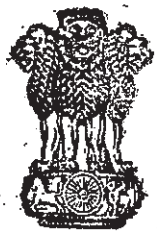
By order and in the name of the Governor of Gujarat,

V.M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 2nd April, 2002.

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported)

The following Bill is published with the consent of the Speaker given under the proviso to the rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT NEW CAPITAL (PERIPHERY)) CONTROL (REPEAL) (SECOND) BILL, 2002.

GUJARAT BILL NO. 24 OF 2002.

A BILL

to repeal the Gujarat New Capital (Periphery) Control Act, 1960.

It is hereby enacted in the Fifty-third Year of the Republic of India as follows:-

Short title and commencement.

1. (1) This Act may be called the Gujarat New Capital (Periphery) Control (Repeal) Act, 2002.

(2) It shall be deemed to have come into force on the 1st July, 2002.

Repeal of Guj. X of 1960.

Guj. X of 1960.

2. The Gujarat New Capital (Periphery) Control Act, 1960 is hereby repealed.

Repeal.

Guj. Ord. 3 of 2002.

3. The Gujarat New Capital (Periphery) Control (Repeal) Ordinance, 2002 is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Gujarat New Capital (Periphery) Control Act, 1960 was enacted for controlling and regulating development in the periphery of the site of the permanent capital of the State of Gujarat. It also extends to the area adjacent to and within a distance of five miles on all sides from the outer boundary of the new capital of the State. The said Act provides for obtaining previous permission of the Collector for erecting any building or to make or extend any excavation or lay out any means of access to a road in the controlled area. It also provides for obtaining the permission of the State Government for the change of use of land. In the year 1976, the Gujarat Town Planning and Urban Development Act, 1976 was enacted for execution of development plans and town planning schemes in the whole of the State. In the year 1996, the Gandhinagar Urban Development Authority has been constituted under section 22 of the Act of 1976. Since the Gandhinagar Urban Development Authority is looking after the development in the areas covered under the Act of 1960, it is not necessary now to have two authorities for the same purpose in the areas of the capital and adjacent areas thereto. With a view to remove the hardship of the people in approaching two different authorities for the same purpose, it was considered necessary to repeal the Gujarat New Capital (Periphery) Control Act, 1960.

As the Gujarat Legislative Assembly was not in session, the Gujarat New Capital (Periphery) Control (Repeal) Ordinance, 2002 was promulgated to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Dated the 24th December, 2002.

INDRAVIJAYSINH JADEJA.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,
Secretary to the Government of Gujarat.
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 26th December, 2002.

Government Central Press, Gandhinagar.

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